eFILED Applicants' Submissions 23.11.2022 (reduced size).pdf

Letter to Sandi Matic - 04.10.2022.pdf

Criminal contempt for filing complaintto attorney general.pdf

Orders 19.10.23.pdf

Affidavit of Martin Lawrence Bennett - 17.11.2022 (2).pdf

Letter to Associate to the Honourable Justice Solomon 23.11.2022.pdf

Orders Solomon J (1 August 2022)-combined (1).pdf

Martin Bennett 30-11-2022 Estoppel.pdf

ICMS-26Apr22-092816-57053278-79e6-46a7-9ada-aaaf0430bc6e.pdf

Letter to Sandi Matic - 04.10.2022 text.pdf

```
ExifTool Version Number       : 12.70
File Name                : Letter to Associate to the Honourable Justice Solomon
23.11.2022.pdf
Directory                : C:/Users/sm/Downloads/exiftool-12.70
File Size                : 48 kB
Zone Identifier              : Exists
File Modification Date/Time    : 2023:12:05 17:05:00+08:00
File Access Date/Time         : 2025:12:09 22:23:50+08:00
File Creation Date/Time       : 2023:12:05 17:05:00+08:00
File Permissions             : -rw-rw-rw-
File Type                : PDF
File Type Extension          : pdf
MIME Type                : application/pdf
PDF Version                : 1.4
Linearized               : Yes
XMP Toolkit                : Adobe XMP Core 8.0-c001 79.328f76e, 2022/08/01-19:10:29
Create Date                : 2022:11:23 16:45:22+08:00
Creator Tool               : RICOH IM C8000
Modify Date                : 2022:11:23 16:36:59+08:00
Metadata Date                : 2022:11:23 16:36:59+08:00
Producer                 : RICOH IM C8000
Format                   : application/pdf
Document ID                : uuid:d57f7283-1aa9-4fa0-a713-3e4edfecaa73
Instance ID               : uuid:c2cdc732-e5e1-4173-b762-1099d89d9fc1
Page Count                 : 1
Creator                  : RICOH IM C8000
```

-- press ENTER --

```
ExifTool Version Number      : 12.70

File Name                    : Letter to Sandi Matic - 04.10.2022.pdf

Directory                    : C:/Users/sm/Downloads/exiftool-12.70

File Size                    : 1015 kB

Zone Identifier              : Exists

File Modification Date/Time  : 2023:12:05 17:09:00+08:00

File Access Date/Time        : 2025:12:09 22:23:39+08:00

File Creation Date/Time      : 2023:12:05 17:09:00+08:00

File Permissions             : -rw-rw-rw-

File Type                    : PDF

File Type Extension          : pdf

MIME Type                    : application/pdf

PDF Version                  : 1.4

Linearized                   : No

Create Date                  : 2022:10:04 16:07:27+08:00

Modify Date                  : 2022:10:04 16:07:27+08:00

Creator                      : RICOH MP C6004ex

Producer                     : RICOH MP C6004ex

Page Count                   : 3

-- press ENTER --
```

```
ExifTool Version Number         : 12.70
File Name                   : Martin Bennett 30-11-2022 Estoppel;.pdf
Directory                  : C:/Users/sm/Downloads/exiftool-12.70
File Size                  : 187 kB
File Modification Date/Time     : 2025:11:03 00:32:41+08:00
File Access Date/Time          : 2025:12:09 22:24:24+08:00
File Creation Date/Time        : 2023:12:05 20:04:03+08:00
File Permissions             : -rw-rw-rw-
File Type                  : PDF
File Type Extension           : pdf
MIME Type                   : application/pdf
PDF Version                 : 1.7
Linearized                  : No
Has XFA                    : No
Page Count                  : 1
Modify Date                 : 2025:11:03 00:32:41+08:00
Producer                    : Microsoft: Print To PDF
Title                     : Binder1
Author                     : sandi
Create Date                 : 2022:11:30 12:59:14+08:00
```

```
ExifTool Version Number        : 12.70
File Name                    : Affidavit of Martin Lawrence Bennett - 17.11.2022 (2).pdf
Directory                    : C:/Users/sm/Downloads/exiftool-12.70
File Size                    : 15 MB
Zone Identifier              : Exists
File Modification Date/Time    : 2023:12:05 17:07:00+08:00
File Access Date/Time         : 2025:12:09 22:25:20+08:00
File Creation Date/Time       : 2023:12:05 17:07:00+08:00
File Permissions              : -rw-rw-rw-
File Type                    : PDF
File Type Extension           : pdf
MIME Type                    : application/pdf
Linearized                   : No
PDF Version                  : 1.7
Page Count                   : 44
Has XFA                      : No
Author                       :
Create Date                  : 2022:11:17 09:58:21+08:00
Modify Date                  : 2022:11:17 09:58:21+08:00
Producer                     : Aspose.PDF for .NET 18.10
Subject                      :
Title                        :
Creator                      : Aspose Ltd.
```

```
ExifTool Version Number       : 12.70

File Name                     : Criminal contempt for filing complaintto attorney general.pdf

Directory                     : C:/Users/sm/Downloads/exiftool-12.70

File Size                     : 122 kB

Zone Identifier               : Exists

File Modification Date/Time   : 2023:12:05 17:04:00+08:00

File Access Date/Time         : 2025:12:09 22:26:11+08:00

File Creation Date/Time       : 2023:12:05 17:04:00+08:00

File Permissions              : -rw-rw-rw-

File Type                     : PDF

File Type Extension           : pdf

MIME Type                     : application/pdf

Linearized                    : No

PDF Version                   : 1.7

Page Count                    : 5

Author                        :

Create Date                   : 2022:09:08 14:45:48+08:00

Modify Date                   : 2022:09:08 14:45:48+08:00

Producer                      : Aspose.PDF for .NET 18.10

Subject                       :

Title                         :

Creator                       : Aspose Ltd.

-- press ENTER --
```

```
ExifTool Version Number        : 12.70

File Name                   : 19.10.23.Mr Matic.pdf

Directory                   : C:/Users/sm/Downloads/exiftool-12.70

File Size                   : 66 kB

Zone Identifier               : Exists

File Modification Date/Time     : 2023:11:28 09:54:00+08:00

File Access Date/Time         : 2025:12:09 22:26:33+08:00

File Creation Date/Time        : 2023:11:28 09:54:00+08:00

File Permissions              : -rw-rw-rw-

File Type                   : PDF

File Type Extension           : pdf

MIME Type                   : application/pdf

PDF Version                  : 1.4

Linearized                  : Yes

Create Date                  : 2023:10:19 09:41:36Z

Modify Date                  : 2023:10:19 09:41:36Z

Creator Tool                 : PrintServer170

Metadata Date                 : 2023:10:19 09:41:36Z

Format                      : application/pdf

Title                       :

Producer                    : Corel PDF Engine Version 17.0.0.366

Part                        : 1

Page Count                   : 1

Creator                     : PrintServer170

-- press ENTER –
```

```
ExifTool Version Number         : 12.70

File Name                       : Letter to Sandi Matic - 04.10.2022 text.pdf

Directory                       : C:/Users/sm/Downloads/exiftool-12.70

File Size                       : 258 kB

File Modification Date/Time     : 2025:07:03 15:18:44+08:00

File Access Date/Time           : 2025:12:09 22:26:47+08:00

File Creation Date/Time         : 2025:07:03 15:18:43+08:00

File Permissions                : -rw-rw-rw-

File Type                       : PDF

File Type Extension             : pdf

MIME Type                       : application/pdf

PDF Version                     : 1.4

Linearized                      : Yes

Has XFA                         : No

Page Count                      : 3

XMP Toolkit                     : Adobe XMP Core 5.2-c001 63.139439, 2010/09/27-13:37:26

Modify Date                     : 2025:07:03 15:18:44+08:00

Producer                        : RICOH MP C6004ex

Creator                         : RICOH MP C6004ex

Create Date                     : 2022:10:04 16:07:27+08:00

-- press ENTER --
```

```
File Name                   : eFILED Applicants' Submissions  23.11.2022 (reduced size).pdf

Directory                  : C:/Users/sm/Downloads/exiftool-12.70

File Size                 : 27 MB

Zone Identifier              : Exists

File Modification Date/Time    : 2023:12:05 17:05:00+08:00

File Access Date/Time         : 2025:12:09 22:27:33+08:00

File Creation Date/Time        : 2023:12:05 17:05:00+08:00

File Permissions             : -rw-rw-rw-

File Type                  : PDF

File Type Extension           : pdf

MIME Type                   : application/pdf

PDF Version                  : 1.7

Linearized                 : Yes

Author                    :

Create Date                  : 2022:11:23 16:24:59+08:00

Modify Date                  : 2022:11:23 16:38:22+08:00

Subject                    :

XMP Toolkit                 : Adobe XMP Core 8.0-c001 79.328f76e, 2022/08/01-19:10:29

Format                     : application/pdf

Creator                    :

Description                   :

Title                    :

Creator Tool                 : Aspose Ltd.

Metadata Date                  : 2022:11:23 16:38:22+08:00

Producer                   : Aspose.PDF for .NET 18.10

Document ID                   : uuid:327ade26-1c08-4b4d-a273-ba2a12399969
```

```
Instance ID                 : uuid:444c39df-34b0-4fb5-9e53-5a0cc753794a
Page Count                  : 42
-- press ENTER --
```

```
Directory                : C:/Users/sm/Downloads/exiftool-12.70

File Size               : 192 kB

Zone Identifier             : Exists

File Modification Date/Time     : 2023:12:05 19:50:00+08:00

File Access Date/Time         : 2025:12:09 22:29:11+08:00

File Creation Date/Time        : 2023:12:05 19:50:00+08:00

File Permissions            : -rw-rw-rw-

File Type                : PDF

File Type Extension           : pdf

MIME Type                  : application/pdf

PDF Version                 : 1.7

Linearized                 : Yes

Author                  : Anne Jones

Create Date                 : 2022:08:01 17:02:43+08:00

Keywords                  : CDR, Precedents

Modify Date                 : 2022:08:01 17:15:29+08:00

Subject                  : Precedent

XMP Toolkit                 : Adobe XMP Core 7.1-c000 79.cb7c5a1, 2022/04/14-05:22:35

Metadata Date                : 2022:08:01 17:15:29+08:00

Creator Tool                : MicrosoftÂ® Word for Microsoft 365

Document ID                  : uuid:b818f44e-b4bc-11b2-0a00-69983c647348

Instance ID                 : uuid:8ee5df51-6597-4fe7-a75a-7531d3c0c506

Format                   : application/pdf

Creator                  : Anne Jones

Description                 : Precedent

Title                  : Memo - order 59 rule 9 certificate
```

```
Producer                  : MicrosoftÂ® Word for Microsoft 365
Page Count                  : 4
-- press ENTER --
```

```
ExifTool Version Number       : 12.70
File Name                  : Orders 19.10.23.pdf
Directory                  : C:/Users/sm/Downloads/exiftool-12.70
File Size                  : 146 kB
Zone Identifier              : Exists
File Modification Date/Time    : 2023:11:28 09:54:00+08:00
File Access Date/Time         : 2025:12:09 22:29:07+08:00
File Creation Date/Time       : 2023:11:28 09:54:00+08:00
File Permissions             : -rw-rw-rw-
File Type                  : PDF
File Type Extension          : pdf
MIME Type                  : application/pdf
Linearized                 : No
PDF Version                 : 1.7
Page Count                  : 2
Author                     :
Create Date                 : 2023:10:19 15:38:06+08:00
Modify Date                 : 2023:10:19 15:38:06+08:00
Producer                   : Aspose.PDF for .NET 18.10
Subject                    :
Title                      :
Creator                    : Aspose Ltd.
-- press ENTER --
ExifTool Version Number       : 12.70
File Name                  : ICMS-26Apr22-092816-57053278-79e6-46a7-9ada-aaaf0430bc6e.pdf
```

```
Directory                  : C:/Users/sm/Downloads/exiftool-12.70

File Size                  : 127 kB

Zone Identifier            : Exists

File Modification Date/Time    : 2023:12:28 10:04:25+08:00

File Access Date/Time          : 2025:12:09 22:30:19+08:00

File Creation Date/Time        : 2025:11:12 16:35:04+08:00

File Permissions           : -rw-rw-rw-

File Type                  : PDF

File Type Extension        : pdf

MIME Type                  : application/pdf

PDF Version                : 1.7

Linearized                 : No

Page Count                 : 9

Language                   : en-AU

Tagged PDF                 : Yes

XMP Toolkit                : 3.1-701

Producer                   : Microsoft® Word for Microsoft 365

Creator                    : Karen Cawood

Creator Tool               : Microsoft® Word for Microsoft 365

Create Date                : 2022:02:15 13:23:23+08:00

Modify Date                : 2022:02:15 13:23:23+08:00

Document ID                : uuid:7F50C221-1ABF-44FB-81F9-6003CCFF46BB

Instance ID                : uuid:7F50C221-1ABF-44FB-81F9-6003CCFF46BB

Author                     : Karen Cawood

-- press ENTER --
```

IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV 1106 of 2022

BETWEEN:

VIVIEN JIT SIEN YAP

First Applicant

and

EMPIRE SONS (AUSTRALIA) PTY LTD T/AS RAY WHITE (DALKEITH CLAREMONT) (ABN 41 604 259 145)

Second Applicant

SANDI MATIC

Contemnor

APPLICANTS' SUBMISSIONS AS TO PENALTY FOR CIVIL CONTEMPT

Allocated Judge:	Justice Solomon
Date of Document:	23 November 2022
Filed on behalf of:	Applicants
Date of Filing:	23 November 2022

Prepared by:
Bennett
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

Tel: +61 8 6316 2200
Fax: +61 8 6316 2211
Ref: TAC:MLB: 116086

1 By the judgment delivered 27 October 2022 published 1 November 2022 this Honourable Court held the contemnor Sandy Matic in contempt of Court – see *Yap v Matic [No 3]* [2022] WASC 370.

2 The Applicants make these submissions to assist the Court in determining penalty.

3 The factors relevant for consideration by the Court were set out in *Chief Executive Officer, Department of Environment and Conservation v Szulc [No 2]* [2011] WASC

FILED
23 NOV 2022
Via eLodgment
CENTRAL OFFICE
SUPREME COURT

315 and were further considered by this Honourable Court in *State of Western Australia v Galati [No 4]* [2017] WASC 162 (copies of these cases are attached).

4 Both decisions of this Honourable Court applied the decision of Dunford J in *Wood v Staunton [No 5]* (1996) 86 A Crim R 183 of 185. These were summarised by Justice Tottle in *Galati* at [34].

5 The nine factors are:

5.1 the nature and seriousness of the contempt proved;

5.2 the consequences of the contempt;

5.3 the context in which the contempt was committed;

5.4 the reason for the contempt including whether the Contemnor intended subjectively to commit the contempt;

5.5 any benefit received by the Contemnor;

5.6 whether there has been any apology or public expression of contrition;

5.7 the circumstances, character and antecedence of the Contemnor;

5.8 general and personal deterrence; and

5.9 denunciation of the contempt.

6 The Applicants address each of these nine matters in turn.

The nature of the contempt

6.1 The contempt committed by the Contemnor was to breach an injunctive order requiring him amongst other things not to threaten Ms Yap. The findings of this Honourable Court are that the email sent by Mr Matic on 16 March 2022 constituted in the context of the dispute “a very menacing threat….” [15].

The consequence of the contempt

6.2 The Court identified [15] that the contempt “appeared to be advanced by the Defendant in an effort to intimidate Ms Yap to drop the proceedings”. If that was the intended objective, then it failed. The consequence however was deposed to by Ms Yap in her second affidavit of 25 March 2022. This Court accepted that the consequence of the threat was “very significant” affecting Ms Yap’s “life, her health and her anxiety”;

The context in which the contempt was committed

6.3 The context involved failed attempts by Mr Matic to set aside the injunctive orders made this Honourable Court in circumstances where Mr Matic contended that the making of orders by this Court had had a significant effect on, amongst other things, his ability to rent property and the like;

The reason for the contempt

6.4 Mr Matic has given no sensible nor persuasive answer as to why he committed the contempt. He did not attend the hearing at which this Honourable Court found his conduct constituted a contempt of Court. This was a deliberate act on his part, not to attend;

Benefit received by the Contemnor

6.5 The Applicants do not identify any benefit received by the Contemnor.

Whether there has been any apology or public expression of contrition

6.6 No directly relevant apology has been given by the Contemnor. The Applicants draw the attention of the this Honourable Court to the public notice published in the West Australian Newspaper on Tuesday, November 22 at page 47 (copy attached). In so far as that is an apology to the Honourable Justice Solomon it is not an apology to the Applicants nor to the Court. It is to be noted that the publication of an apology by Mr Galati which was relevantly considered by Justice Tottle was a large publication in the West Australian Newspaper, not a small public notice published in the West Australian Newspaper.

Circumstances, character and antecedents of the Contemnor

6.7 The Applicants make no submission in this regard.

General and personal deterrence

6.8 The Applicants rely on the affidavit evidence filed before this Honourable Court that shows that the Contemnor still continues to act to the Court and to Counsel for Ms Yap in a manner that indicates he considers himself to be outside the authority of this Honourable Court.

6.9 Chief Justice Martin in *Szulc* at [70] commented "*general deterrence is significant…because it has to be made clear to people in Mr Szulc's position that orders made by this Court for the protection…are orders which must be obeyed, that the Court will not countenance breaches of this kind and will punish breaches of the orders of the Court that are made for the purpose of the protection…General deterrence is of particular significance in cases like these in which unlawful conduct having an adverse effect…has been undertaken deliberately, with knowledge of the illegality for the purpose of commercial gain or benefit.*" In this case it is of significant importance to the Applicants that the Court make plain that orders made for the protection of individuals must be obeyed and that the Court will not countenance breaches of protective orders such as the orders made to protect Ms Yap. In so far as personal deterrence is concerned, it is of fundamental importance that Mr Matic receive a clear statement from the Court that "*he must obey the law and must obey the authority of the Court*" [71].

6.10 The High Court in *Australasian Meat Industry Employee's Union v Mudginberri Station Pty Ltd* (1986) 161 CLR 98 at [107] adopted a passage from Borrie & Lowe's *Law of Contempt* "*if a Court lacked the means to enforce its orders, if its orders can be disobeyed with impunity, not only would individual litigants suffer, the whole administration of justice would be brought in disrepute*".

Denunciation of contempt.

6.11 It is of vital importance for the administration of justice that the Court denounce emphatically the conduct of the Contemnor and show the Court's disapproval of that conduct.

Submission as to penalty

7 Having regard to the factors set out above, the Court should impose a custodial sentence. It is unlikely that a fine will be paid – the correspondence directed to Registrar Nelson of this Honourable Court indicates that the Contemnor does not accept liability to pay the costs of the Applicants in the proceedings.

8 The seriousness of emphasising to the public that protective injunction orders must be complied with is such that an appropriate custodial term is 90 days.

"M.L. Bennett"

M L BENNETT
COUNSEL

List of Authorities

Case Authorities

1 *Chief Executive Officer, Department of Environment and Conservation v Szulc [No 2]* [2011] WASC 315

2 *State of Western Australia v Galati [No 4]* [2017] WASC 162

3 *Yap v Matic [No 3]* [2022] WASC 370

EMPLOYMENT

General Positions

RURAL EMPLOYMENT

WOOL CLASSER & SHEARER WANTED!!!
Accom & meals available.
Please ring **0429 807 045**

Local Govt. Tenders

Shire of
meekatharra
a golden prospect

REQUEST FOR TENDER

MOBILE WORKERS CAMP TRAILERS RFT 2022/23-2

The Shire of Meekatharra is seeking Tenders from suitably qualified and experienced Contractors for the supply of a Mobile Workers Camp Trailers.

A copy of the Tender documents must be obtained by registering your details by email to Mr Lawrence Hinrichs at **res@meekashire.wa.gov.au** or the CEO at **ceo@meekashire.wa.gov.au**

Tenders can be lodged in the Tender Box at the Shire of Meekatharra Administration Centre or emailed to **ceo@meekashire.wa.gov.au.**

Please direct any technical enquiries to the Shire's Works and Services Manager by emailing **worksmgr@meekashire.wa.gov.au.**

Tender submissions addressed to the CEO at the address close at 4.00pm Tuesday 13 December 2022 clearly marked with the above RFT number and addressed as follows:

KJ Matthews
Chief Executive Officer
Shire of Meekatharra
PO Box 129
MEEKATHARRA WA 6642

FOR SALE

Wanted To Buy

OLD HOUSES WANTED Metro area for Investment Company. Growth Realty **0411 865 712**

Public Notices

DECEASED ESTATES

TRUSTEES ACT 1962 AS AMENDED, SECTION 63

- Joan Elva Goldthorpe late of 22 Wheatcroft Street, Scarborough, Western Australia, deceased.
- Creditors and other persons having claims (to which Section 63 of the Trustees Act, 1962, relates) in respect of the estate of the deceased who died on 15 May 2022 are required by the personal representative, John Stuart Goldthorpe, to send particulars of their claims to him care of IRDI Legal, 248 Oxford Street, Leederville, Western Australia 6007 within 31 days from date of publication of this Notice after which date the personal representative may convey or distribute the assets having regard to the claims of which he then has notice.

IRDI Legal as solicitors for the personal representative.

TRUSTEES ACT 1962
Deceased Estates
Notice to Creditors and Claimants

Joan Yvonne Campbell, late of 94 Kitchener Road, Alfred Cove, Western Australia, deceased. Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962 relates) in respect of the Estate of the deceased, who died on the 21st of June 2022, are required by the executors Lise Belle Shepherd and Evan Jonathon Watts to send the particulars of their claims to Lise Belle Shepherd of 10 Whelan Road, Kardinya, Western Australia, 6163, within one (1) month of the date of publication of this notice after which date the executor may convey or distribute the assets, having regard only to the claims of which they then have notice.

TRUSTEES ACT 1962
Notice to Creditors and Claimants

Estate of Kathleen Ann Dyson late of 6B Falstaff Close, Greenfields in the State of Western Australia.

Creditors and other persons having claims (to which section 63 of the Trustees Act 1962 relates) in respect of the estate of the deceased, who died on 15 March 2022, are required by the Executor/Administrator, Jacobus Johannes de Klerk, of 97 Challenger Road, MADORA BAY, in the State of Western Australia, to send particulars of their claims to him within one month from the date of publication of this notice, after which date the Executor may convey or distribute the assets, having regard only to the claims of which they then have notice.

Dated: 17 November 2022

LEGACY LEGAL WA
97 Challenger Road
MADORA BAY WA 6210
Ph: 08 9537 2934
Contact Johan de Klerk

DECEASED ESTATES

TRUSTEES ACT 1962
Notice to Creditors and Claimants

Donald Ian Leunig, late of 28 Foundry Court, North Fremantle, the State of Western Australia, Business Proprietor, deceased.
Creditors and other persons having claims (to which Section 63 of the Trustees Act 1962 relates) in respect of the estate of the deceased, who died on 7 September 2022, are required by joint executors Timothy Harry Leunig and Peter Donald Leunig to send particulars of their claim to Zafra Legal of Level 10, 105 St Georges Terrace, Perth WA 6000 by the date one (1) month from the publication date of this notice, after which date the executor may convey or distribute the assets having regard only to the claims of which he then has notice.

GENERAL

ANNUAL GENERAL MEETING
Perry Lakes Hawks Basketball Assn. (inc.)
To be held at 6.30pm on Wednesday 14th December 2022 at Bendat Basketball Centre. **Agenda:**
President's report; Directors reports,
Financial report
Election of Directors
Notice of Motions
Other business
J. Purser Administrator

NOTICE OF APOLOGY TO THE HON JUSTICE SOLOMON

I, Sandi: a man, give NOTICE;
I, Acted in a manner that was not honourable when attending the court at which you were presiding and subsequent email correspondences regarding His Honour;
I, Apologise publicly for the manner in which I behaved;
I, Sandi: as a living private man, will attend future court invitations under special attendance as settlor, to settle any substantiated claims before the court.
p.p. SANDI, MATIC

Inspire the artist in you,
read the
Arts Directory
Concerts Choirs Galleries Jazz Art Courses Concerts Artists Jazz Choirs Courses Galleries
in the
The West Australian

Personal

ADULT SERVICES

AAA MATURE LADY KOREAN
Busty, Kiss Anything Goes
Wanneroo **0432 717 229**

GENERAL

A A A A A A A A A A A A A A A

Langtrees VIP Escorts
available incall outcall 24/7
0402 743 999
www.langtreesofperth.com.au
Girls 18+ Welcome

AAAAAA JAP New 2 Armadale Hot 21y Sexy Bikini Perfect Toy Great F/S **0405 919 311**

● **AAAAAA New 2 DIANELLA** ●
● **HOT PRIV F/S ★ No Text** ●
● **$50 LUCY ★ 0452 388 960** ●

AAAAAA ★ SWEET & SEXY GIRL TO SPOIL YOU 18+ Morley I/O **0452 566 780**

AAAAAA ★ Traditional Thai ★ Belmont 9-8pm Light Bondage 18+ Extras Anne 0401 397 830

AAAAA BELMONT 2 Students 19/20yo Busty Kiss Toys Do All Twice **0405 097 773**

AAAAA MORLEY Mature Housewife, Passion, Very Gd Full svc + mass **0408 621 984**

AAAAA RIVERVALE $80 Sz4/6 Student 18+ Slim Hot Body Gd Serv, I/O **0481 392 962**

AAAA DD+ Busty Jap Gd F/S & Kisses **Morley 0404 770 124**

AAA Asian Barbie Sensual Tease Gorgeous Bikini Model Tuart Hill Priv **0432 562 353**

AAA Asian Beautiful Girls 18+ Available v/u/me **0403 687 517 Freo**

TWINS

AAA Asian Sisters Young 20yo 21yo Slim Busty Long Hair Priv In/Out **0405 411 775** 24 hrs

AAAA Thornlie/Cannington & Canning Vale DD+ Sz5 B2B I/o (2 ladies) 24/7. **0426 755 658**

AAA Korean Housewife Horny ♥ Loves Mature Age Men ♥ I/O Morley **0452 573 460**

AAA LATHLAIN BEST MASS Sensual, PRof, Nude f/bdy $40 1/2, $70 hr **0451 810 765**

AAA Sexy Mature Asian Lady Sensual Excel F/S French Bassendean **0421 531 132**

AAA STRAP-ON ★ The Best Gorgeous Boobs Perfect Body Toys Osb/Pk Priv **9440 4799**

GENERAL

AA MALE WAXING
Facials, Clipping & Hair Cuts
Como JOSEPH **0412 446 160**

A ★ Elegant Lady Private $60 Best massage. Magic hands. SOR. **0481 799 622**

★ A MASSAGE Petite Thai, fully shaven, size 6, nude fun. Dianella **0457 348 171**

A 100% Real Photo Top Serv Sexy Asian Girl 21yo No Rush In/Outcall **0426 035 233**

AUSSIE BLONDE SANDY
Busty, Shaven. Visit me/you
0411 884 713 Dianella

BLUE-EYED BLONDE
20yo Aussie Uni Student
Petite Fit Size 6 F/S $150
SOR – 0449 048 428

Euro • Aussie • African • Asian
Full Service – I/O – V/U/M
● Open 24 / 7 ●
9328 9300 – 9227 7267

GOOD MASSAGE $50
Hong Kong Model Pretty Sz8
Beckenham **0426 558 200**

MALE 2 Male, V/well hung Experienced Adventurous 43y 7 Days ★ Steve **0400 180 755**

MASSAGE Perfect PLEASURE
★ Mature Classy UK Carol ★
No text **0458 220 815** E.V.Prk

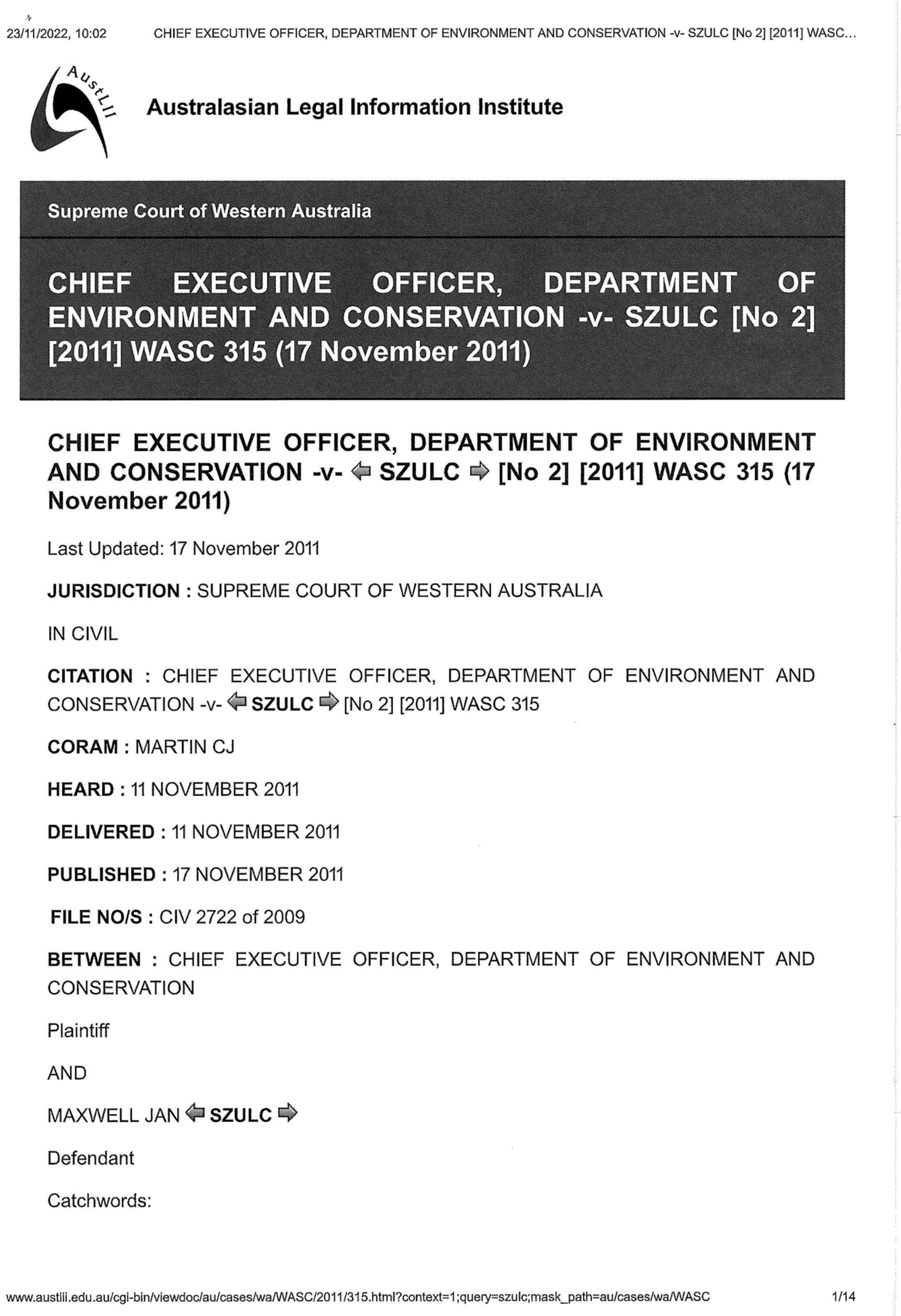
PHOENIX Massage & Foot Spa
★ Relaxing & Good Massage
211 Bulwer St Pth 0451 434 991

Looking for something to do?
Read...
What's On in the West
Friday's **Today** section
The West Australian

PLACE AN ADVERTISEMENT
24 HOURS A DAY
ONLINE
TheWestClassifieds.com.au
CLASSIFIEDS

CALL NOW!
Whether you want to buy it or sell it, we can help you.
It's easy. Call now!
The West Classifieds
132280

The most important moments in life should be shared.
Mark the moments that mean the most in The West Classifieds
westclassifieds.com.au | 9482 2300



Australasian Legal Information Institute

Supreme Court of Western Australia

CHIEF EXECUTIVE OFFICER, DEPARTMENT OF ENVIRONMENT AND CONSERVATION -v- SZULC [No 2] [2011] WASC 315 (17 November 2011)

CHIEF EXECUTIVE OFFICER, DEPARTMENT OF ENVIRONMENT AND CONSERVATION -v- ⇦ SZULC ⇨ [No 2] [2011] WASC 315 (17 November 2011)

Last Updated: 17 November 2011

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA

IN CIVIL

CITATION : CHIEF EXECUTIVE OFFICER, DEPARTMENT OF ENVIRONMENT AND CONSERVATION -v- ⇦ **SZULC** ⇨ [No 2] [2011] WASC 315

CORAM : MARTIN CJ

HEARD : 11 NOVEMBER 2011

DELIVERED : 11 NOVEMBER 2011

PUBLISHED : 17 NOVEMBER 2011

FILE NO/S : CIV 2722 of 2009

BETWEEN : CHIEF EXECUTIVE OFFICER, DEPARTMENT OF ENVIRONMENT AND CONSERVATION

Plaintiff

AND

MAXWELL JAN ⇦ **SZULC** ⇨

Defendant

Catchwords:

Criminal law - Contempt of court for breach of injunction of the court by clearing land - Turns on own facts

Legislation:

Environmental Protection Act 1984 (WA)

Sentence Administration Act 2003 (WA)

Sentencing Act 1995 (WA)

Result:

Convicted of two acts of contempt of court

Committed to prison for terms of 9 months and 15 months, to be served concurrently

Category: A

Representation:

Counsel:

Plaintiff : Mr R M Mitchell SC & Ms F B Seaward

Defendant : In person

Solicitors:

Plaintiff : State Solicitor's Office

Defendant : In person

Case(s) referred to in judgment(s):

MARTIN CJ:

(This judgment was delivered extemporaneously on 11 November 2011 and has been edited from the transcript.)

Reasons for conviction

1 The Chief Executive Officer of the Department of Environment and Conservation (the CEO) has brought two motions alleging contempt of court by Mr Maxwell Jan ⇦ **Szulc** ⇨ who is the defendant in these proceedings.

2 The first motion, described by counsel for the CEO as the second application (because it is the second occasion upon which the CEO has brought contempt proceedings against Mr ⇦ **Szulc** ⇨) dated 17 January 2011, seeks an order that Mr ⇦ **Szulc** ⇨ be committed for

contempt of court for failing to comply with an interim clearing injunction granted pursuant to s 51S of the *Environmental Protection Act 1984* (WA) on 8 October 2009, and amended on 2 November 2009, in respect of the land at lot 997 on plan 21197, being the whole of the land contained in certificate title vol 199 folio 30A (which I will describe as 'the farming property').

3 It is alleged that Mr ⇦ **Szulc** ⇨ has failed to comply with the clearing injunction by causing or allowing native vegetation on the farming property to be killed or destroyed and, in particular, that on a date unknown between 24 October 2010 and 30 November 2010, areas that had been cleared on the property prior to the granting of the clearing injunction were again ploughed.

4 I will deal with this application before turning to what counsel for the CEO describes as the third application, which is an application dated 27 May 2011.

5 Prior to these proceedings being commenced, notices relating to the maintenance of vegetation on the farming property had been served on Mr ⇦ **Szulc** ⇨. A soil conservation notice was served upon Mr ⇦ **Szulc** ⇨ in 1994 and at or about the same time as these proceedings were commenced on 23 September 2009, a vegetation conservation notice was served upon Mr ⇦ **Szulc** ⇨.

6 In these proceedings, on 8 October 2009, I made an order that until the trial of the action or further order, Mr ⇦ **Szulc** ⇨ be restrained, and a clearing injunction be granted restraining Mr ⇦ **Szulc** ⇨, from causing or allowing the killing or destruction of, the removal of, the severing or ringbarking of trunks or stems of, or the doing of any other substantial damage to native vegetation on the farming property, including by ploughing, raking, or burning areas cleared in 2009, except in accordance with a clearing permit and soil conservation notice F728801, which is the conservation notice to which I have referred and which was annexed to the order.

7 On 2 November 2009, that injunction was slightly varied by me to authorise the clearing of a sixmetre wide firebreak on the external boundaries of the property. Proceedings for breach of that order were brought by the CEO, and that is what counsel for the CEO has described as the first application. Those proceedings were determined by me on 26 July 2010 (***Chief Executive Officer, Department of Environment and Conservation v*** ⇦ ***Szulc*** ⇨ [2010] WASC 195). In the reasons which I gave on that occasion, I have set out the principles which I take to govern proceedings of this kind. I adopt by reference those principles without necessarily restating them.

8 Relevant to these proceedings, and what I must remind myself, is that the allegation brought by the CEO is to the effect that Mr ⇦ **Szulc** ⇨ has committed a deliberate breach of an order of the Court. 'Deliberate' in this context means wilful in the sense of actions which were not casual, accidental or unintentional.

9 The proceedings, although perhaps technically characterised as civil proceedings, are criminal in nature, with the result that all of the principles of the criminal law apply to the resolution of these proceedings. Those principles include the principle that the CEO must prove the allegation of contempt beyond a reasonable doubt and that the CEO at all times

carries the burden of proof, and that the standard of proof is the highest known to the law. The general principles of the criminal law relating to proof of knowledge require the CEO to prove that Mr ⇦ **Szulc** ⇨ had knowledge of the facts which render his actions a breach of the order and, of course, requires the CEO to prove beyond reasonable doubt that the actions that the CEO asserts were a breach of the order were taken by Mr ⇦ **Szulc** ⇨, or that he caused them to occur, and that they were not casual, accidental, or unintentional.

10 The CEO relies upon the following evidence to discharge that burden of proof. I first refer to the earlier affidavit evidence of Mr Craig Stephen Jaques, who is an officer of the Department of Environment and Conservation which provided the basis for the finding of contempt which I made on 26 July 2010.

11 In very general summary of that evidence, it established to my satisfaction and to the requisite standard that, notwithstanding the injunction which I had ordered in October and the variation which I had ordered in November of the previous year, of which Mr ⇦ **Szulc** ⇨ was aware, Mr ⇦ **Szulc** ⇨ had undertaken the clearing of 42 ha of native vegetation on the farming property and some additional areas had also been burnt and cleared. I sentenced Mr ⇦ **Szulc** ⇨ to 3 months imprisonment with the result that he would have been released in or about late October 2010.

12 A further affidavit of Mr Jaques of 21 December 2010 is relied upon in relation to what we are calling the second application. Mr Jaques deposes and I accept, there being no evidence to the contrary, that on 30 November 2010 he attended the farming property owned by Mr ⇦ **Szulc** ⇨ and registered in the name of Mr ⇦ **Szulc** ⇨ and his former wife in the company of other officers of the department, being Mr Wright, Mr Rayner and Ms Waters.

13 Mr Jaques arrived at the property at approximately 10.15 am and observed Mr ⇦ **Szulc** ⇨ working on a vehicle at the front of his house. Mr Jaques walked over to Mr ⇦ **Szulc** ⇨ and had a brief conversation with him in which he explained to Mr ⇦ **Szulc** ⇨ that he intended to conduct an inspection of the vegetation at the property.

14 Mr Jaques explained to Mr ⇦ **Szulc** ⇨ that the inspection had been discussed in court earlier that year. I take that to be a reference to the discussion in court in the course of these proceedings to the effect that the CEO proposed to undertake inspections to ascertain the extent to which native vegetation had been permanently damaged as a result of the clearing work undertaken by Mr ⇦ **Szulc** ⇨, and in particular the extent to which regrowth of native vegetation would occur despite the land having been cleared.

15 After that conversation, Mr ⇦ **Szulc** ⇨ asked Mr Jaques for a copy of the court transcript but Mr Jaques replied that he did not have it with him. Mr ⇦ **Szulc** ⇨ then requested that Mr Jaques and the others who were with him leave the property and indicated that he would call the police.

16 Mr Jaques and the other officers then left the property and returned at approximately 1.30 pm that day in the company of police officers Spicer and Harrison from the Ravensthorpe

police station. There were some conversations between those police officers and Mr ⇦ **Szulc** ⇨ after which the police left the property.

17 Mr Jaques then travelled to the western boundary of the property to an area that he had observed on 23 December 2009 and 10 May 2010 as being one of the areas that had been cleared in 2009. Within that area, Mr Jaques observed a mixture of regrowth, cropped areas and recently ploughed ground. He could tell that the ground had been recently ploughed because the ground contained plough and tyre marks and cleared vegetation lying on the surface was still green in colour. After a number of weeks, cleared vegetation changes colour to brown as it dries out, as Mr Jaques observes. Rainfall also would compact the soil surface and wash away tyre and plough marks. That is the basis for Mr Jaques' conclusion that the ground had been recently ploughed. Mr Jaques observed that the areas that had been recently ploughed had resulted in the additional removal and clearing of native vegetation which had been regrowing within the area cleared in 2009.

18 The majority of the vegetation which had been removed as a result of the activity which Mr Jaques concluded had been undertaken was a small purple flowering native plant. Mr Jaques observes that the plant is a fire ephemeral, meaning it is a shortlived native plant that germinates after fire or physical soil disturbance from seed contained within the soil. Mr Jaques took photographs of the area which he observed and which are in evidence and which confirm to me the observations which he has described in his affidavit. As Mr Jaques states in his affidavit, those photographs show regrowing native vegetation next to recently ploughed ground. Mr Jaques estimates that several hectares of ground in the area in which he made these observations had been ploughed which had resulted in the clearing of native vegetation regrowth.

19 Mr Jaques then travelled to other areas of the property where he helped Ms Waters establish quadrats for the purpose of measuring and recording vegetation species composition within the area of those quadrats.

20 After doing that Mr Jaques travelled to the eastern boundary of the property, then south along the fence line and then to the centre of the property where he had observed that clearing had been undertaken when he visited the property on 23 September 2009. Within that area Mr Jaques observed a recently ploughed area which he estimates was approximately 20 ha in area. Mr Jaques observed that the soil within that area had been turned over with a plough and numerous small native plants including native eucalyptus regrowth had been removed from the ground and were left lying on the surface. Most of the plants that had been removed from the ground were still green in colour, which indicated to Mr Jaques that the clearing of those native plants had occurred within the last week or two.

21 Later Mr Jaques used a global positional system, or GPS, to record the location of the photographs that he took during the course of his visit. Using GPS coordinates he produced a map, which is in evidence, showing the approximate locations where native vegetation had been cleared by ploughing the ground. Based on his observations, and using the GPS coordinates he had plotted, he again estimated that at least 20 ha of native vegetation regrowth had recently been cleared by ploughing. The map which Mr Jaques has prepared

is in evidence. Overlayed onto that map are the previously cleared or ploughed areas identified during his previous inspections.

22 Mr Jaques also deposes, and I accept, that he undertook a search of all records maintained by the Department of Environment and Conservation with respect to applications for and the grant of clearing permits. Having undertaken a search of those records, he states that he was unable to identify any entry recording either any application for a clearing permit having been made or granted to Mr ⇦ **Szulc** ⇨ or any application being made or granted in respect of the farming property.

23 The CEO also relies upon the affidavit of Mr Adam Brett Rayner who, as I have mentioned, was one of the officers who accompanied Mr Jaques on the visit to the property which occurred on 30 November 2010. In the course of his visit to the property, Mr Rayner travelled in company with Mr Jaques to a location further south of the area which they went to initially, being the area in the centre of the property described by Mr Jaques. There Mr Rayner observed a freshlyploughed area where there was a distinct line between the soil which had previously been ploughed and the newly ploughed soil. Mr Rayner states that within the area he observed the soil was dry and friable, there was no evidence of rain having fallen on it and small native plants including eucalyptus regrowth were lying on the ground, most of those plants still being green in colour.

24 The CEO also relies upon the affidavit of Ms Julie Louise Waters who was, as I have mentioned, one of the group that visited the property on 30 November 2010.

25 The primary purpose of Ms Waters' visit was to establish the quadrats and undertake the survey of the regrowth to which I have already referred. Ms Waters' affidavit contains a report which she prepared following her undertaking of that work and the survey of regrowth which establishes that in the areas that are not the subject of these proceedings, that is, the areas that had not been recently disturbed, there was significant native vegetation regrowth.

26 Ms Waters states that from her observations of vegetation at the property she identified native vegetation returning to many of the areas that had been cleared in 2009 and 2010. She observed that regeneration of native vegetation was greatest within the least disturbed area, that is, areas that have not been seeded to crop or recently ploughed. The regrowth of native vegetation within the areas that had been ploughed and cropped demonstrated to her that a viable seed bank remained within the soil. She concluded that if further cropping and ploughing was not conducted within the previously cleared area native vegetation would return, albeit with some loss of species' diversity.

27 The CEO also relies on an affidavit of Mr Malcolm Robert Wright who, as I have mentioned, was amongst the group that visited the property on 30 November 2010. Mr Wright states that he first travelled to an area near to the western boundary of the property where he observed some regrowth amongst the cropped areas. At that location he assisted Ms Waters to establish quadrats and to count the plant species therein. He then travelled to a location towards the centre of the property where he observed that regrowth appeared to be recovering well. He again assisted Ms Waters to establish quadrats and count plant

species. He then travelled to a southern location on the property where he observed a freshly ploughed area within which the soil was loose and friable and small plants, still green in colour, were lying on the ground. Due to the ploughing, no quadrat was established in that area. Finally, he states that he travelled to the southeastern corner of the property where he observed regrowth to be recovering well and assisted in the establishment of another quadrat.

28 That completes the evidence relied upon by the CEO in relation to the second application.

29 I will now set out the evidence and the findings that I make in relation to what we are calling the third application. That is an application brought by the CEO and dated 27 May 2011. In that application the CEO seeks an order that the defendant be committed for contempt of court for failing to comply with the interim clearing injunction to which I have earlier referred. It is alleged that Mr ⇦ **Szulc** ⇨ has failed to comply with the clearing injunction by causing or allowing native vegetation on the property to be killed or destroyed, and in particular, on a date unknown between 30 November 2010 and 18 May 2011 it is alleged that an area containing native vegetation and comprising approximately 40.4 ha was either burnt, ploughed or burnt and ploughed, this area having previously been cleared between 9 October 2009 and 10 May 2010.

30 The affidavits relied upon in support of the third application include another affidavit of Mr Jaques. Mr Jaques deposes in that affidavit that upon 4 February he obtained a report from the Firewatch Project that a fire had been detected at the property the subject of these proceedings within the last 12 hours. He then obtained Landsat images, one dated 13 January 2011 and another dated 22 February 2011. As a result of comparing those images he observed significant changes in vegetation cover in the south-western part of the farming property. Attached to Mr Jaques' affidavit is a copy of the landsat images to which I have referred which confirm that observation.

31 Mr Jaques states in his affidavit, which I accept, there being no evidence to the contrary, that on 18 May 2011 he attended the property with officers of the Department of the Environment and Conservation, being Ms O'Brien and Mr Rayner, and with officers of WA Police.

32 He arrived at the property at about 10.15 am and went to the house on the property and knocked on the door, but there was no answer. He then travelled to the western boundary of the property and then south to a partlycleared area that he had observed on his earlier visits. About that time WA Police officers left the property.

33 Mr Jaques states that during his previous inspection on 30 November 2010 he had observed dense native vegetation covering the ground in that area, but the taller trees had been pushed over. On 18 May 2011 he observed that all of the native vegetation had been burnt and that some of the areas had also been ploughed. He observed that most of the area now contained bare soil scattered with burnt stumps and small native bushes.

34 Mr Jaques has attached to his affidavit a true copy of 14 photographs which depict the area that had been burned. They confirm Mr Jaques' assertion that there was blackened soil together with blackened stumps and bushes as a result of the fire. Mr Jaques estimated that an area of approximately 26.7 ha had been burnt, resulting in the further removal and destruction of native vegetation. Mr Jaques has also attached to his affidavit copies of six photographs which depict the burnt and ploughed areas. Like the other photographs they show blackened stumps, ploughed ground and small plants regrowing.

35 Mr Jaques estimated that another area of approximately 13.7 ha of native vegetation had been burnt and ploughed which resulted in further removal and destruction of native vegetation. Those observations were made on the western boundary but then south to a partlycleared area.

36 Mr Jaques travelled then to the eastern boundary of the property and south along the fence line to the southeastern corner of the property where he had seen clearing during his visit in September 2009. Within that area of the property he observed native vegetation regrowing within the area that had been previously cleared. That vegetation was up to one metre in height, consisting mostly of regrowing eucalypts. No further clearing work was apparent in that area since his previous site inspection on 30 November 2010. That evidence is relevant to confirm the evidence of Ms Waters to the effect that, if the previously cleared portion of the farming property had been left undisturbed, regrowth of native plants would have occurred.

37 Mr Jaques deposes that he had completed his inspection by about 12.45 pm. As he was leaving the property he met Mr ⇦ **Szulc** ⇨ at the property. He had a brief conversation with Mr ⇦ **Szulc** ⇨ regarding the entry provisions under the *Environmental Protection Act*. He told Mr ⇦ **Szulc** ⇨ that he had observed a further area of clearing in the south-west of the property. Mr ⇦ **Szulc** ⇨ replied by asking him if he had permission to be on the property. Mr Jaques replied to the effect that there were entry provisions in the *Environmental Protection Act* and offered to explain those provisions to Mr ⇦ **Szulc** ⇨. Mr ⇦ **Szulc** ⇨ said to Mr Jaques that he had read the Act and he did not think that Mr Jaques had any right to be on his property. He asserted that Mr Jaques would end up with a criminal record for trespass. Mr Jaques said that in his view he was authorised by the Act to inspect the property. Mr ⇦ **Szulc** ⇨ then asked the officers to leave, which they did.

38 Mr Jaques again used the GPS system to record the location of each photograph he had taken and then used GPS coordinates to produce a map showing the approximate locations where native vegetation had been cleared by ploughing the ground. Based on those observations, and using the coordinates, Mr Jaques confirms the estimate he made at the time of his visit to the effect that at least 40 ha of native vegetation had been cleared by burning and ploughing during 2011, and a map depicting the approximate location of the burnt and ploughed areas has been provided to the court by Mr Jaques.

39 Mr Jaques again undertook a search of all the records maintained by the Department of the Environment and Conservation in respect of clearing permits. Having searched those records, he states that he did not find any entry relating to any application for a clearing

permit being made or granted to Mr ⇦ **Szulc** ⇨ or any application for a clearing permit having been made or granted in respect of the property by any other person. I do not think it is necessary to refer to any of the other evidence relied upon by the CEO in relation to the third application.

40 I turn now to set out the conclusions which I draw from this evidence, and from the findings of fact which I have set out as a result of that evidence. It is clear beyond reasonable doubt from the findings of fact that I have set out that in each of the instances covered by the applications, land on the farming property has been cleared contrary to the orders which I made in 2009. The consequence of the earlier clearing had been of course to destroy native vegetation in the area that had been cleared. However, as Mr Jaques observed and as Ms Waters confirmed, and as the photographs themselves make clear, but for further clearing work, native vegetation would have regrown in the areas that had been previously cleared.

41 That regrowth has been prevented by the clearing work described in the affidavits of Mr Jaques and the other witnesses to whom I have referred. In relation to the second application, it is clear that some time prior to 30 November 2010 the area identified by Mr Jaques had been cleared. The question then is whether there is evidence from which I should conclude beyond reasonable doubt that the clearing was undertaken by Mr ⇦ **Szulc** ⇨.

42 It is clear from the observations of Mr Jaques made on that occasion that the clearing had been recently undertaken. The vegetation which he observed was still green and of course that reinforces his observation that the clearing work had only been recently undertaken. As I have noted, Mr ⇦ **Szulc** ⇨ was in custody until late October 2010, but was then released and he was present at the property at the time Mr Jaques inspected on 30 November 2010. Indeed, he demanded that Mr Jaques leave the property when Mr Jaques first attended and before Mr Jaques returned in the company of police.

43 As I have observed, the property is owned by Mr ⇦ **Szulc** ⇨ and in previous proceedings in this court, including in particular at the hearing on 26 July 2010, Mr ⇦ **Szulc** ⇨ gave evidence to the effect that he is the only person who lives at the property. On that occasion Mr ⇦ **Szulc** ⇨ admitted that he had been responsible for the clearing work that had been previously undertaken on the property and, as I have observed, he was present at the property when the inspection on 30 November 2010 occurred.

44 That material is, I think, sufficient for me to conclude beyond reasonable doubt that it was Mr ⇦ **Szulc** ⇨ who either undertook the clearing work or caused it to be undertaken. I also conclude that the alleged breach of the orders was wilful in the sense that I have described and could not be described as casual, accidental or unintentional. The terms of the orders were clear and had been made well known to Mr ⇦ **Szulc** ⇨ - he had already been imprisoned for breach of those orders. There is no doubt that he was aware of them. He was also no doubt aware of the likely consequences of breaching the orders, given the previous proceedings which had taken place.

45 The act of clearing already ploughed land, and in particular having regard to the areas involved, can only be consistent with deliberate intentional physical activity undertaken quite purposefully and wilfully by Mr ⇦ **Szulc** ⇨ or at his direction, I conclude that the second application is made out and I find Mr ⇦ **Szulc** ⇨ guilty of contempt as alleged in that application.

46 Turning then to the third application, it is also clear from the evidence that I have received that there was a substantial area of approximately 40 ha on the farming property that had been either burnt or ploughed or both some time between the inspection on 30 November and the subsequent inspection on 18 May 2011.

47 As with the second application it is clear that, but for the work that had been undertaken by ploughing and burning, native vegetation regrowth would have occurred in the areas that had been previously cleared and the consequence of the ploughing and burning was to destroy such regrowth as had already taken place and which is evident in the photographs and which was evident to Mr Jaques upon his inspection. I conclude and find that clearing work in contravention of the injunction was taken out by somebody.

48 Again I have to ask myself whether the evidence satisfies me beyond reasonable doubt that this work was undertaken or caused to be undertaken by Mr ⇦ **Szulc** ⇨. Many of the same considerations as applied to the second application on this topic apply to the third application. Mr ⇦ **Szulc** ⇨ is the owner of the property, although his exwife's name is also on the title. He previously observed in evidence that he is the only occupant of the property. He has previously given evidence to the effect that he caused the previous clearing work to be undertaken, and although not present, or not at least evidently present at the time the officers arrived at the property on 18 May 2011, he was present on the property when the officers left the property on 18 May 2011 and had a conversation with those officers about their right to be there, in terms which made it clear that he was asserting exclusive possession and occupancy of the property.

49 All of those facts appear to me to be quite sufficient to establish beyond reasonable doubt that it was Mr ⇦ **Szulc** ⇨ who either ploughed and burnt the land or caused the land to be ploughed and burnt. For the same reasons as I gave in relation to the second application it is, I think, clear beyond doubt that the clearing work was undertaken wilfully and could not be characterised as casual, accidental or unintentional.

50 The orders were plainly known to Mr ⇦ **Szulc** ⇨. As a result of the previous proceedings in this case he was aware of them. He had previously been punished for breaching them. The actions involved ploughing and burning, and the ploughing was certainly deliberate. Because only part of the land was burnt it seems likely that that was also a deliberate act, and the areas involved are substantial; a little over 40 ha made up of two separate areas. It seems highly unlikely that any of those things could have happened either accidentally or unintentionally.

51 For these reasons, I am satisfied beyond reasonable doubt that the work was undertaken by Mr ⇦ **Szulc** ⇨ wilfully or that he wilfully caused it to be undertaken. I find the third

application proven and I find Mr ⇦ **Szulc** ⇨ guilty of contempt as alleged.

Sentencing remarks

52 I turn now to deal with the penalties that should be imposed upon Mr ⇦ **Szulc** ⇨ for the two contempts of court which I have found to be established. I note first that I have previously sentenced Mr ⇦ **Szulc** ⇨ to a term of 3 months imprisonment as a result of the contempt which I found he had committed on what we have been calling the first application in the course of these proceedings.

53 In my reasons on that occasion, I set out the principles which I took to apply to govern the imposition of penalties for contempt of court. Since that decision, I have had occasion to address those principles in another case that I have decided, being ***Corruption and Crime Commission v Allbeury, Silvestro, Chikonga, Smith*** [No 2] [2011] WASC 26l; (2011) 205 A Crim R 386.

54 That decision was made in a very different context to the present case because it concerned a number of individuals who had refused to provide evidence to the Corruption and Crime Commission in the course of an investigation of organised crime. As will be apparent from the reasons which I gave, that context seemed to me to be particularly significant to the sentences which I was imposing in that case.

55 Nevertheless, some of the principles which I there enunciated are of more general application, including in particular the identification of the principles normally taken into account by a court when considering the punishment appropriately imposed for contempt of court and which are helpfully set out in the decision of Dunford J in ***Wood v Staunton [No 5]*** (1996) 86 A Crim R 183.

56 The general principles to be applied, in very short summary, are that contempt of court is the only remaining nonstatutory offence under the law of Western Australia and as a consequence, the punishment to be applied is purely a matter within the discretion of the court. The powers conferred upon that court are wide and flexible. The provisions of the *Sentencing Act 1995* (WA) and the *Sentence Administration Act 2003* (WA) do not apply to contempt, with the consequence that no question of parole or eligibility for parole arises, although the principles set out in s 6 of the *Sentencing Act* are nevertheless relevant.

57 Turning then to such of the factors that are identified by Dunford J in ***Wood v Staunton*** and which are relevant to this case, I deal firstly with the seriousness of the contempt proved. It is I think clear in these cases that the contempts that have been committed by Mr ⇦ **Szulc** ⇨ are very serious.

58 Amongst the reasons why they must be categorised as serious is the fact that they constitute two separate and distinct further breaches of the orders that I have made at times at which Mr ⇦ **Szulc** ⇨ was well aware of the consequences of breach as a consequence of his earlier conviction and incarceration.

59 Mr ⇦ **Szulc** ⇨ has placed himself in the position of a person who is flagrantly denying the administration of justice and the authority of the law. It follows that his conduct in flagrantly denying the authority of the law and the authority of this court must be denounced in an appropriately emphatic way.

60 Adding to the seriousness of the contempts that have been established are the fact that a conservation notice had been served upon Mr ⇦ **Szulc** ⇨, a vegetation conservation notice had been served upon Mr ⇦ **Szulc** ⇨ and breach of those notices carry consequences in their own right.

61 The context in which these contempts were committed is also a factor which magnifies the seriousness of the contempts that have been proven. The *Environmental Protection Act* serves an important public purpose, a purpose which the community respects and expects the court, I am sure, to enforce by strong action.

62 The provisions of the *Environmental Protection Act* which were invoked by the CEO in this case and which gave rise to the clearing injunction are important provisions which protect native vegetation and in particular, vegetation that might protect and contain rare flora, or provide a habitat for rare fauna, or protect water courses, or prevent soil erosion. Even though the areas cleared by Mr ⇦ **Szulc** ⇨ in breach of the injunction had previously been cleared unlawfully, the evidence establishes that if clearing work ceases, there is a good prospect of substantial native vegetation regrowth. The actions of Mr ⇦ **Szulc** ⇨ have delayed that regrowth.

63 All of these things are important public interest considerations. The reasons for the contempts committed are not known but it is clear, as I have already observed, that they were deliberate and intentional contempts. One of the important sentencing considerations that is to be taken into account when breaches of legislation for the protection of the environment are concerned is that it is very likely in such cases that the breaches will have been wilful, deliberate, premeditated and undertaken for commercial advantage.

64 In many other areas of the law courts constantly see offenders who have breached the law by actions that are spontaneous, ill considered, not premeditated, or which were occasioned by intoxication or stupefaction or some other transient weakness of personality. Breaches of the environmental law are commonly not of that kind, and certainly the breaches which have been committed by Mr ⇦ **Szulc** ⇨ on this occasion are not of that kind.

65 As I have said, I have no evidence as to precisely why Mr ⇦ **Szulc** ⇨ did what he did on these occasions, but I think it is possible to draw inferences, at least for the purpose of sentence, from the fact that Mr ⇦ **Szulc** ⇨ is a farmer and the property is a farming property. Obviously Mr ⇦ **Szulc** ⇨ saw advantage to be gained from the clearing of that property, presumably in order that he could use it for farming purposes. Therefore I conclude that Mr ⇦ **Szulc** ⇨ has undertaken a deliberate and calculated breach of the law, and committed a contempt of the court in order to obtain commercial gain or benefit. That magnifies the seriousness of the contempts which have been established against him.

66 The second factor identified in ***Wood v Staunton*** that is relevant to this case is whether the contemnor was aware of the consequences to himself of what he did. There can be no doubt in this case that Mr ⇦ **Szulc** ⇨ would have been only too well aware of the likely consequence of his contravention, he having been only recently released from prison at the time of the contravention the subject of the second application.

67 The next factor is the actual consequences of the contempt. The consequences of the two contempts in this case have been that areas totalling a little over 60 ha of land that had already been cleared, and in respect of which regrowth would have occurred, have now again been desecrated, thus deferring the regrowth on that land. Another factor relevant to this case is the reason for the contempt, and I have already set out my findings on that subject.

68 Relevant also are questions of whether there has been any apology or public expression of contrition. There is no evidence in this case nor any suggestion of any apology or public expression of contrition. On the contrary, Mr ⇦ **Szulc** ⇨ by his conduct has displayed contempt (in the broad sense of that term) for the authority of the court and the authority of the law.

69 Character and antecedents of the contemnor are relevant. I have no evidence on that subject or submissions, so I proceed on the assumption that, aside from his previous conviction for contempt, Mr ⇦ **Szulc** ⇨ is a person of otherwise good character.

70 General and personal deterrence are I think particularly significant factors in this case. General deterrence is significant, as I observed on the last occasion, because it has to be made clear to people in Mr ⇦ **Szulc** ⇨'s position that orders made by this court for the protection of the environment are orders which must be obeyed, that the court will not countenance breaches of this kind, and will punish breaches of the orders of the court that are made for the purpose of the protection of the environment severely. General deterrence is of particular significance in cases like these in which unlawful conduct having an adverse effect upon the environment has been undertaken deliberately, with knowledge of its illegality, for the purpose of commercial gain or benefit. In cases like this, the punishment imposed must be such as to discourage others from taking the risk that their unlawful conduct will not be detected.

71 Personal deterrence has become a very significant factor in this case. There are now three separate occasions upon which Mr ⇦ **Szulc** ⇨ has been convicted of contempt by breaching the orders that I made and of which he was aware. It must be made clear to Mr ⇦ **Szulc** ⇨ that he must obey the law and must obey the authority of the court. Previous attempts to make Mr ⇦ **Szulc** ⇨ aware of that have failed and it follows that further attempts must be made by the imposition of greater terms of punishment.

72 Finally, the case of ***Wood v Staunton*** recognises the importance of denouncing the contempt that has been committed. I have already made reference to that factor. Because these are the second and third contempts committed by Mr ⇦ **Szulc** ⇨ it is I think entirely

appropriate that the court denounce emphatically the conduct which he has committed and show the court's disapproval of that conduct by the sentences to be imposed.

73 Although not strictly required to do so by the *Sentencing Act*, I have of course given consideration to the question of whether any sentence other than an immediate term of imprisonment would be appropriate. I have no hesitation in concluding that such a sentence would not be appropriate. Mr ⇦ **Szulc** ⇨ has previously been sentenced to imprisonment for the first contempt of which he was convicted and it is clear for all the reasons I have indicated that greater terms of imprisonment must be imposed upon Mr ⇦ **Szulc** ⇨ in order to reinforce to him his obligation to comply with the law.

74 I will now pass sentence. Mr ⇦ **Szulc** ⇨, would you stand up please. Mr ⇦ **Szulc** ⇨, for the offence of contempt of court the subject of the second application, that is for the offence committed some time between late October and late November 2011, I sentence you to 9 months imprisonment. For the offence of which I found you guilty the subject of the third application, that is the contempt committed between 30 November and 18 May 2011, I sentence you to 15 months imprisonment. Because of the totality principle I will order that those sentences be served concurrently, so the net effect is that you will be sentenced to 15 months imprisonment.

75 I take into account the fact that because the *Sentencing Act* and *Sentencing Administration Act* do not apply, there is no prospect of parole for those offences, so you will be sentenced to 15 months imprisonment.

[2017] WASC 162

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA
IN CHAMBERS

CITATION : THE STATE OF WESTERN AUSTRALIA -v-
GALATI [No 4] [2017] WASC 162

CORAM : TOTTLE J

HEARD : 8 JUNE 2017

DELIVERED : 16 JUNE 2017

FILE NO/S : CIV 2545 of 2015

BETWEEN : THE STATE OF WESTERN AUSTRALIA
Plaintiff

AND

ANTONIO GALATI
First Defendant

GALATI NOMINEES PTY LTD
Second Defendant

Catchwords:

Contempt - Civil contempt - Penalty - Where contempt admitted - Seriousness of the breach considered - Where defendants making substantial contribution to plaintiff's costs - Where defendants have made public apology in newspaper

Legislation:

Civil Judgments Enforcement Act 2004 (WA), s 97, s 98
Marketing of Potatoes Act 1946 (WA), s 28
Marketing of Potatoes Amendment and Repeal Act 2016 (WA), s 46, s 49(1)
Sentencing Act 1995 (WA), s 6

Result:

The first defendant be fined $7,500
The second defendant be fined $32,500

Category: B

Representation:

Counsel:

Plaintiff	:	Mr P D Quinlan SC & Ms B M Allen
First Defendant	:	Mr J C Giles SC & Mr P van der Zanden
Second Defendant	:	Mr J C Giles SC & Mr P van der Zanden

Solicitors:

Plaintiff	:	State Solicitor for Western Australia
First Defendant	:	Hotchkin Hanly Lawyers
Second Defendant	:	Hotchkin Hanly Lawyers

Case(s) referred to in judgment(s):

Allbeury v Corruption and Crime Commission [2012] WASCA 84
Attorney-General (NSW) v MacQuarie Publications Pty Ltd (1988) 40 A Crim R 405
Attorney-General v Times Newspapers Ltd [1974] AC 273
Australasian Meat Industry Employees' Union v Mudginberri Station Pty Ltd (1986) 161 CLR 98
Caratti v Boban Pty Ltd (Administrators Appointed) [No 2] [2015] WASC 139
Chief Executive Officer, Department of Environment and Conservation v Szulc [No 2] [2011] WASC 315
Construction, Forestry, Mining and Energy Union v BHP Steel (AIS) Pty Ltd [2003] FCAFC 13; 196 ALR 350
Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd [2015] HCA 21; (2015) 256 CLR 375
Kennedy v Lovell [2002] WASCA 226
Potato Marketing Corporation of Western Australia v Galati [2015] WASC 430
R v Giscombe (1984) 79 Cr App R 79
R v Pearce (1992) 7 WAR 395

Re Colina; Ex parte Torney [1999] HCA 57; (1999) 200 CLR 386
Thunder Studios Inc (California) v Kazal (No 2) [2017] FCA 202
Witham v Holloway (1995) 183 CLR 525
Wood v Staunton [No 5] (1996) 86 A Crim R 183

TOTTLE J:

Summary

1 Galati Nominees disobeyed an order made by the court on 11 November 2015.[1] It admits this disobedience means that it is guilty of a contempt of court for which it should be punished. By disobeying the order Galati Nominees obtained a commercial benefit in the form of revenue of approximately $148,000.

2 Mr Galati was a director of Galati Nominees when it disobeyed the order and he admits that he is guilty of a contempt of court for which he should be punished.

3 The law of contempt of court protects the public interest in the due administration of justice, that is, the resolution of disputes by adjudication in the courts. Orders made by the courts give effect to decisions made by applying the law that governs all members of society to disputes brought before the courts. The authority of the courts and ultimately the rule of law are undermined if court orders are not obeyed. Those bound by court orders must understand that they cannot be disobeyed with impunity.[2]

4 Acknowledging these important principles, the defendants have apologised unreservedly to the court and, on 9 June 2017, published a statement in The West Australian newspaper recording their apology and their acceptance that the court's orders must be obeyed without exception. I have decided that Galati Nominees should be punished for its contempt by the imposition of a fine of $32,500 and that Mr Galati should be punished for his contempt by the imposition of a fine of $7,500.

5 The defendants have agreed to pay $200,000 towards the plaintiff's costs of the contempt proceedings.

Agreed facts

6 The parties agreed a statement of the facts which should be taken into account by me in determining the penalties to be imposed on the defendants. The facts are as follows.

---

[1] In these reasons I will refer to the first and second defendants as the defendants unless it is necessary to refer to them individually, in which case I will refer to them as Mr Galati and Galati Nominees, respectively.

[2] ***Attorney-General v Times Newspapers Ltd*** [1974] AC 273 [315] (Lord Simon of Glaisdale); ***Australasian Meat Industry Employees' Union v Mudginberri Station Pty Ltd*** (1986) 161 CLR 98, 107; ***Thunder Studios Inc (California) v Kazal (No 2)*** [2017] FCA 202 [4] (Rares J).

7 In November 2015 Mr Galati was a commercial producer of ware potatoes and Galati Nominees was a merchant, appointed by the Potato Marketing Corporation of Western Australia (the Corporation), to receive delivery of ware potatoes on behalf of the Corporation from persons, such as Mr Galati, who were authorised by it to carry on business as commercial producers. Galati Nominees sold the ware potatoes delivered to it by Mr Galati.

8 The Domestic Marketing Pool 2 of the 2015/2016 season established under the *Marketing of Potatoes Act 1946* (WA) comprised the period 4 October 2015 to 2 January 2016 (Pool 2).

9 The Corporation issued Mr Galati a certificate of domestic market entitlement for Pool 2 which entitled him to deliver a total of 1,049 tonnes of potatoes during Pool 2.

10 On 11 November 2015 I made the following order:

> Until further order [Galati Nominees] is restrained from, either directly or indirectly, selling ware potatoes in excess of the domestic market entitlement of a total of 1,049 tonnes allocated by [the Corporation] to [Mr Galati] pursuant to section 28 of the *Marketing of Potatoes Act 1946* (WA) for the period from 4 October 2015 to 2 January 2016.

11 The order was served personally on Mr Galati on 24 November 2015. This constituted service on Galati Nominees.

12 Mr Galati was also present in court when the order was made and both he and Galati Nominees had knowledge of the terms and substance of the order that was clear, unambiguous and capable of compliance.

13 In breach of the order, Galati Nominees sold 150 tonnes of ware potatoes in excess of the domestic market entitlement of 1,049 tonnes allocated by the Corporation to Mr Galati for Pool 2.

14 The breach was deliberate, that is, not accidental, and it was voluntary.

15 Both defendants knew of the sale of 150 tonnes of ware potatoes in excess of the domestic market entitlement of 1,049 tonnes allocated by the Corporation to Mr Galati for Pool 2.

16 Galati Nominees received an average sale price of $990 per tonne for the ware potatoes it sold in breach of the order. This figure did not represent the net financial benefit per tonne received by Galati Nominees

resulting from the breach as it had to meet certain overheads and variable costs, such as casual labour, transport, packaging and distribution costs.

17 The pleas of guilty and the agreement as to facts have resulted in savings in court time and trial costs.

18 In addition to their contribution of $200,000 to the plaintiff's costs the defendants have paid their own costs of the proceedings.

19 The defendants have no prior convictions for contempt.

Procedural matters

20 The application comes before the court by way of a notice of motion filed on 1 June 2016 and amended on 24 August 2016. In the amended notice of motion, the Corporation alleged that Galati Nominees should be found guilty of contempt by reason of its disobedience of the order and that Mr Galati, as a director of Galati Nominees, be found guilty of contempt pursuant to s 98(3) of the *Civil Judgments Enforcement Act 2004* (WA).

21 The Corporation was abolished on 31 December 2016 and its assets and rights were vested in the State of Western Australia.[3] On 16 January 2017, I ordered that the State of Western Australia be substituted as the plaintiff in place of the Corporation.

Contempt - the legal principles

22 Division 2 of the *Civil Judgments Enforcement Act* applies if a judgment requires or has the effect of requiring a person to not do an act, to cease doing an act, or to do an act other than to pay money or to give possession of any real or personal property to another person.[4]

23 'Judgment' is defined in s 3 of the *Civil Judgments Enforcement Act* to include an order of a court that requires or has the effect of requiring a person to do an act, or not do an act, or cease doing an act. Accordingly, the order is a judgment for the purposes of div 2 of the *Civil Judgments Enforcement Act.*

24 Section 98(3) of the *Civil Judgments Enforcement Act* provides:

> If a corporation disobeys a judgment to which this Division applies, the corporation is guilty of a contempt of court, and each officer of the

---

[3] *Marketing of Potatoes Amendment and Repeal Act 2016* (WA) s 46 and s 49(1).

[4] *Civil Judgments Enforcement Act 2004* (WA) s 97.

> corporation is also guilty of a contempt of court unless he or she satisfies the court -
>
> (a) that the corporation's disobedience occurred without the officer's consent or connivance; and
>
> (b) that the officer took all the measures to ensure the corporation obeyed the judgment that he or she could reasonably be expected to have taken having regard to the officer's functions and to all the circumstances.

25 The requirements for proof of a punishable contempt of court are as follows:

(i) an order was made by the court;

(ii) the terms of the order were clear, unambiguous and capable of compliance;

(iii) the order was served on the contemnor or service was dispensed with;

(iv) the contemnor has knowledge of the terms of the order;

(v) the contemnor has breached the terms of the order; and

(vi) the act or omission which constituted the breach of the order was deliberate and voluntary.[5]

26 Deliberate disobedience of an order does not require a specific intention to break the law or even knowledge on the part of the contemnor that the relevant conduct constituted a breach. It is sufficient that the contemnor was aware of the facts that make their conduct a breach of the order. In the context of contempt, 'deliberate' means wilful in the sense that the actions of the contemnor were not casual, accidental or unintentional.[6]

27 Disobedience of a court order constitutes a civil contempt although where the disobedience involves deliberate defiance, that is, where the disobedience can be described as contumacious, it may constitute a

---

[5] ***Caratti v Boban Pty Ltd (Administrators Appointed) [No 2]*** [2015] WASC 139 [19] - [21], [86] - [88] (Mitchell J, as his Honour then was).

[6] ***Chief Executive Officer, Department of Environment and Conservation v Szulc [No 2]*** [2011] WASC 315 [8] (Martin CJ); cf ***Caratti*** [82] - [84].

criminal contempt. The distinction between criminal and civil contempt is, however, blurred and has been described as illusory.[7]

Defendants are guilty of contempt

28 On the basis of the admissions made by them, each defendant is guilty of contempt of court.

29 As a director of Galati Nominees, Mr Galati's guilt flows from Galati Nominees' disobedience of the order and his inability to satisfy the court that:

(i) such disobedience occurred without his consent or connivance; and

(ii) he took all the measures that he could reasonably be expected to have taken having regard to his functions and circumstances to ensure that Galati Nominees obeyed the order.

Principles applicable to determination of penalty

30 The question of punishment for contempt is a matter that is within the discretion of the court.[8]

31 The *Sentencing Act 1995* (WA) does not apply as a matter of law to punishment for contempt of court but it is appropriate to have regard to the principles of sentencing set out in s 6 of the *Sentencing Act*.[9]

32 The cardinal feature of the power to punish for contempt is that it is an exercise of judicial power by the courts to protect the due administration of justice.[10]

33 In ***Mudginberri,*** the majority emphasised that the underlying rationale of the exercise of the power to punish for contempt was that it was necessary to uphold and protect the efficient administration of justice

---

[7] ***Witham v Holloway*** (1995) 183 CLR 525, 534 (Brennan, Deane, Toohey and Gaudron JJ), cited with approval in ***Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd*** [2015] HCA 21; (2015) 256 CLR 375 [42] (French CJ, Kiefel, Bell, Gageler and Keane JJ), [66] (Nettle J). The distinction was described as being of an 'unsatisfactory nature' in ***Mudginberri*** (107) (Gibbs CJ, Mason, Wilson and Deane JJ).

[8] ***R v Pearce*** (1992) 7 WAR 395, 431 (Malcolm CJ, with Pidgeon and Rowland JJ agreeing).

[9] ***Kennedy v Lovell*** [2002] WASCA 226 [6] (Malcolm CJ, with Murray and Steytler JJ agreeing).

[10] ***Re Colina; Ex parte Torney*** [1999] HCA 57; (1999) 200 CLR 386, 429 [112] (Hayne J), cited with approval in ***Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd*** [41] (French CJ, Kiefel, Bell, Gageler and Keane JJ).

by demonstrating that the court's orders will be enforced. The majority cited the following passage from *Borrie and Lowe's Law of Contempt*:[11]

> If a court lacked the means to enforce its orders, if its orders could be disobeyed with impunity, not only would individual litigants suffer, the whole administration of justice would be brought into disrepute.

34 In ***Wood v Staunton [No 5]***,[12] Dunford J set out a number of matters relevant to the assessment of the proper punishment for a contempt constituted by a refusal by a witness at a Royal Commission to answer questions put to him. Expressed in more general terms than those used by Dunford J the relevant matters are as follows:

(i) the nature and seriousness of the contempt proved;

(ii) the consequences of the contempt;

(iii) the context in which the contempt was committed;

(iv) the reason for the contempt including whether the contemnor intended subjectively to commit the contempt;

(v) any benefit received by the contemnor;

(vi) whether there has been any apology or public expression of contrition;

(vii) the circumstances, character and antecedents of the contemnor;

(viii) general and personal deterrence; and

(ix) denunciation of the contempt.

35 The absence or presence of a prior conviction for contempt,[13] but not other criminal history,[14] is relevant.

36 The great variation in the facts and circumstances of offences of contempt and contemnors precludes the establishment of a tariff or a sentencing range.[15]

---

[11] ***Mudginberri*** (107), citing *Borrie and Lowe's Law of Contempt* (2nd ed, 1983) 3. This passage also appears in the more recent version of the text: I Cram (ed), *Borrie and Lowe: The Law of Contempt* (4th ed, 2010) 6.

[12] ***Wood v Staunton [No 5]*** (1996) 86 A Crim R 183, 185.

[13] ***Attorney-General (NSW) v MacQuarie Publications Pty Ltd*** (1988) 40 A Crim R 405, 410 (Kirby ACJ, with Hope AP and Mahoney JA agreeing).

[14] ***R v Giscombe*** (1984) 79 Cr App R 79, 84.

[15] ***Allbeury v Corruption and Crime Commission*** [2012] WASCA 84 [251] (Buss JA, as his Honour than was, with McLure P and Mazza JA agreeing).

37 The burden imposed on a contemnor by an adverse costs order may be taken into account when determining the penalty for contempt. In some instances an adverse order for costs may be considered by a court as a sufficient sanction for contempt.[16]

38 I will now set out how the principles to which I have referred apply to the contempt committed by the defendants.

Seriousness of the contempt, its context, the reason for it and benefit received

39 The context in which the order disobeyed by Galati Nominees was made is relevant to my assessment of the seriousness of the contempt.

40 The order was made to restrain breaches of the regulatory scheme for the production and marketing of potatoes established by the *Marketing of Potatoes Act 1946.* As recorded in the reasons for making the order, Mr Galati had stated that unless restrained Galati Nominees would sell potatoes in excess of his Pool 2 Domestic Market Entitlement.[17] One of the factors taken into account in assessing where the balance of convenience lay was the public interest, about which I stated:[18]

> I am satisfied that there is a real danger that if Galati Nominees is not restrained from selling potatoes grown by Mr Galati in excess of his relevant DMEs, the Corporation will not be able to regulate the market for potatoes effectively and in accordance with the Act. There is a real risk that other growers and merchants who have operated in compliance with the Act will follow Mr Galati's lead and operate without regard to the provisions of the Act. This carries with it the risk of disorderly de facto deregulation. If there is to be deregulation, this must be achieved in accordance with a timetable and in a manner specified by the State Government and Parliament. In my view, these factors highlight that damages would not be an adequate remedy and that the balance of convenience favours the grant of relief.
>
> I should add that the public interest (in the widest sense) suffers if a scheme established by law is contravened by persons who decide unilaterally that the scheme should not apply to them. In essence, this is the position taken by Mr Galati and Galati Nominees. The aspect of the public interest to which I have just adverted is thus a factor that favours the grant of an injunction.

---

[16] ***Construction, Forestry, Mining and Energy Union v BHP Steel (AIS) Pty Ltd*** [2003] FCAFC 13; 196 ALR 350 [7] - [13] (Moore J, with Tamberlin and Goldberg JJ agreeing).

[17] ***Potato Marketing Corporation of Western Australia v Galati*** [2015] WASC 430 [109].

[18] ***Potato Marketing Corporation of Western Australia v Galati*** [124] - [125].

41 By referring to these passages in the reasons for making the order I am not to be taken as determining the seriousness of the breach on the basis that the defendants acted in defiance of the order, that is, that the contempt was contumacious. The facts that have been agreed do not permit such a finding to be made. The contravening sale of potatoes was deliberate in the sense to which I have referred earlier: it was not casual, accidental or unintentional.

42 The defendants accepted the breach of the order was serious and that it was not a 'technical' breach. In my view, this was a proper concession to make. The breach of the order was serious for the following reasons.

43 First, the object of the order was not confined to the preservation of private rights but was made to uphold those aspects of the public interest identified in the passages of the reasons for making the order cited above. Mr Galati, and thus Galati Nominees, knew that the order was made in part to protect the public interest and this should have reinforced the importance of ensuring that the order was obeyed.

44 Second, as the defendants acknowledge, the breach was not a trivial breach. A significant tonnage of potatoes was sold in breach of the order. Galati Nominees derived substantial revenue from the infringing sales.

45 Third, directors of a company which is subject to a court order enjoining it either to perform an act or to refrain from doing a particular act bear a heavy responsibility to ensure that the company complies with the order. In this case, Mr Galati has accepted, in effect, that he did not take all the measures that he could reasonably have been expected to take, having regard to his position within Galati Nominees, to ensure Galati Nominees obeyed the order. No explanation has been offered as to how the breach of the order was allowed to occur. In circumstances in which it must have been obvious to Mr Galati that it was important that the order be obeyed, his failure to ensure that it was obeyed is an omission deserving of punishment.

46 The defendants accept that it is proper to view the acts constituting the breach of the order as done for the purposes of obtaining commercial benefit. The significant revenue received by Galati Nominees does not represent the net financial benefit derived by it from the breach of the order, but Galati Nominees has not provided any information from which an estimate of the net financial benefit might be made. Indeed, no information about the defendants' financial circumstances has been provided.

been filed and served by the plaintiff. The plaintiff had also filed and served comprehensive written submissions.

54 The defendants' admissions and guilty pleas came after the plaintiff had incurred the expense of preparing its case and this is reflected, in part at least, by the defendants' agreement to pay $200,000 to the plaintiff in respect of costs.[19] It is a substantial payment.

55 The utilitarian benefit of the defendants' admissions and guilty pleas is, however, a mitigating factor. The further costs of a seven-day hearing have been avoided and the court has been able to utilise the time that the hearing would otherwise have occupied. I will reduce the fines that I would otherwise have imposed in recognition of the utilitarian benefit of the admissions.

56 I accept that the apology made to the court by Mr Giles SC on behalf of the defendants in the presence of Mr Galati, and the apology published in The West Australian newspaper, taken with the admissions and guilty pleas, is evidence of remorse on Mr Galati's part. As noted earlier, the publication of an apology in a newspaper assists in conveying the message to the public that court orders must be obeyed.

The significance of the payment of $200,000 towards the plaintiff's costs

57 Mr Giles submits that the publication of the apology and the liability to pay the plaintiff's costs constitute sufficient punishment for Mr Galati. For the same reasons he submits that any fine imposed on Galati Nominees should be modest.

58 I accept that the payment of $200,000 towards the plaintiff's costs ensures that Galati Nominees has not profited from its breach of the order. I also accept that the payment of this sum contributes to general deterrence. I have taken those matters into account in determining the fines.

59 In my view, however, the mitigation to be derived from the contribution to costs is not to be accorded the weight for which the defendants contend for three reasons.

60 First, by making the payment of $200,000 towards costs the defendants are bearing a burden they created. The same observation may be made about the costs incurred by the defendants with their own lawyers. If the defendants had made their admissions at the

---

[19] This payment does not reflect an agreement to pay costs on an indemnity basis.

[2022] WASC 370

JURISDICTION : SUPREME COURT OF WESTERN AUSTRALIA IN CIVIL

CITATION : YAP -v- MATIC [No 3] [2022] WASC 370

CORAM : SOLOMON J

HEARD : 12 APRIL & 27 OCTOBER 2022

DELIVERED : 27 OCTOBER 2022

PUBLISHED : 1 NOVEMBER 2022

FILE NO/S : CIV 1106 of 2022

BETWEEN : VIVIEN JIT SIEN YAP
First Plaintiff

EMPIRE SONS (AUSTRALIA) PTY LTD T/AS RAY WHITE (DALKEITH CLAREMONT)
Second Plaintiff

AND

SANDI MATIC
Defendant

Catchwords:

Contempt of court – Breach of court orders – Whether conduct amounted to a breach – Turns on own facts

Legislation:

Nil

Result:

Defendant guilty of contempt

Category: B

Representation:

Counsel:

First Plaintiff	:	Mr M L Bennett
Second Plaintiff	:	Mr M L Bennett
Defendant	:	No appearance

Solicitors:

First Plaintiff	:	Bennett
Second Plaintiff	:	Bennett
Defendant	:	No appearance

Case(s) referred to in decision(s):

Yap & Anor v Matic [2022] WASC 181

I certify that the preceding paragraph(s) comprise the reasons for decision of the Supreme Court of Western Australia.

IS
Associate to the Honourable Justice Solomon

1 NOVEMBER 2022

Bennett
LITIGATION AND COMMERCIAL LAW

Our ref: JLB:MLB:116677
Contact: Jess Border
Direct Line: +61 8 6316 2276
Email: jborder@bennettlaw.com.au
Contact: Martin Bennett
Direct Line: +61 8 6316 2255
Email: mbennett@bennettlaw.com.au

4 October 2022

Mr Sandi Matic
11 Pearson Place
FLOREAT WA 6014
By Email: sandi@konkrethaus.com.au

Dear Mr Matic

Vivien Jit Sien Yap and Anor v Sandi Matic | Supreme Court proceedings CIV 2008 of 2022
Vivien Jit Sien Yap and Anor v Sandi Matic | Supreme Court proceedings CIV 1106 of 2022

We write in relation to the above proceedings. This is an open communication. You should consult a lawyer if you are in any doubt as to these matters.

Preliminary comments

In this letter, we refer to the operation of orders made by the Supreme Court, a Court with jurisdiction to make such orders. You should, by now, be aware of the application of such orders.

For the avoidance of doubt, this letter is addressed to you, Mr Sandi Matic. Despite persistent queries made and arguments advanced by you in relation to the identity of the defendant, including an attempt to draw a distinction between your individual self and a "juridical" person, the orders made in each of the above proceedings apply to you in your personal capacity.

As we (the plaintiffs' solicitors), and the Court have emphasised previously on numerous occasions, you are the first defendant. Neither the plaintiffs, nor the Court, recognise or accept the purported distinction between you ('the living breathing man and natural person') and your 'legally generated entity' or 'trust'. To the extent that you seem to rely on sources such as "thepeoplescourtofterraaustralis.org", the content of that which is entirely worthless.

Permanent injunctions

On 2 September 2022, Justice Solomon:

1 dismissed your application for summary judgment against the plaintiffs; and

2 entered default judgment in favour of the plaintiffs.

We write to set out the implications of the default judgment.

B

Whadjuk Noongar Boodja
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

PO Box 7766
Cloisters Square
PERTH WA 6850

T + 61 8 6316 2200
F + 61 8 6316 2211
bennettlaw.com.au

Lawfirst Pty Ltd
ABN 69 147 622 197
An incorporated legal practice
trading as Bennett.

Liability limited by a scheme approved under Professional Standards Legislation.

You are permanently restrained and an injunction has been granted restraining you from:

1 attending or attempting to attend at any premises at which the first and/or second plaintiff are conducting and invited public viewing or "home open" in respect to the proposed sale of such premises;

2 erecting signage or any form of public notice of or concerning first and/or second plaintiff at such properties or in respect of the first and/or the second plaintiff's sale of such properties;

3 threatening economic reputational of physical harm to the plaintiffs.

The Court also made orders that you pay the plaintiffs' damages, to be assessed, as well as the plaintiffs' costs of the application for injunctive relief.

We will shortly file with the court the plaintiffs' bill of costs and apply for a taxation (that is a Court review) of those costs. You will be liable for payment of those costs in accordance with the Court's orders.

The plaintiffs will not hesitate to take enforcement action to enforce their costs if enforcement action is required.

Further injunctions

At the hearing on 3 October 2022, of which you had ample notice, the Court made orders in favour of the plaintiffs. These included:

1 interlocutory orders restraining you from publishing any affidavits in CIV 1106 of 2022 and CIV 2008 of 2022 on the internet, any other public notice board, or any other means by which the material would be publicly available and requiring you to remove any already published affidavits;

2 an order requiring you to file an appearance by 10 October 2022. If you file an appearance you may be able to make submissions as to why the Court should not make an indemnity cost against you in favour of the Plaintiffs.

We *enclose* with this letter a copy of those orders.

The Court requested us to emphasise that publication of any of the affidavits in either of the proceedings would constitute a contempt of Court.

If you do not file an appearance, the plaintiffs will seek default judgment for orders restraining you permanently from publishing affidavits in the proceedings.

Consequences of acting in contempt of Court

The rule of law has at its foundation the authority of the Court to make effective orders.

Disobedience of these orders is one manner that constitutes a contempt. Order 55 Rule 7 of the Rules of the Supreme Court provide a range of sanctions which may be imposed by the Court. These include:

1 a power to order the arrest and imprisonment of a contemnor;

2 a power to substantive fines;

3 a power to seize assets.

We emphasise that you are already facing two applications to commit you for your contempt. If you were to disobey these orders it would be at your peril.

Trust funds from sale of Biara Gardens property

We are instructed that the plaintiffs presently hold the commission from the sale of the Biara Gardens property in their trust account.

Now that the proceedings for injunctive relief have been finally determined, we have instructed our clients that they can authorise the removal of the agreed commission from the account.

Yours sincerely

Martin Bennett
Founding Principal

Encl.

IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV 1106 of 2022

BETWEEN:

VIVIEN JIT SIEN YAP

First Plaintiff

and

EMPIRE SONS (AUSTRALIA) PTY LTD T/AS RAY WHITE (DALKEITH CLAREMONT) (ABN 41 604 259 145)

Second Plaintiff

SANDI MATIC

Defendant

PLAINTIFFS' SUBMISSIONS IN SUPPORT OF APPLICATION FOR COMMITTAL OF CRIMINAL CONTEMPT

Allocated Judge:	Justice Solomon
Date of Document:	8 September 2022
Filed on behalf of:	Plaintiffs
Date of Filing:	8 September 2022

Prepared by:
Bennett
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

Tel: +61 8 6316 2200
Fax: +61 8 6316 2211
Ref: JLB: MLB: 116086

---

1 The plaintiffs rely upon the affidavit of Jessica Louise Border affirmed 18 August 2022.

2 The affidavit annexes an email published by Mr Matic on 16 August 2022 at 8.36am. That email was addressed to Ms Border, Mr Ebbs, Mr Bennett and a secretary at Bennett, Sally Elliott, to His Honour Justice Solomon, to His Honour the Chief

FILED
8 SEP 2022
Via eLodgment
CENTRAL OFFICE
SUPREME COURT

Justice, to the Attorney General and 4 other members of Parliament. The issue is whether the publication of the email constitutes a contempt of Court.

The requirements of the due administration of justice

3 The traditional requirements for the due administration of justice were analysed by Lord Diplock in *Attorney General v Times Newspaper Limited* [1974] AC 273 at 309 where his Lordship said:

> "The due administration of justice requires first that all citizens should have unhindered access to the constitutionally established courts of criminal or civil jurisdiction for the determination of disputes as to their legal rights and liabilities; secondly that they should be able to rely upon obtaining in the courts the arbitrament of a tribunal which is free from bias against any party and whose decision will be based upon facts only that have been proved in evidence adduced before it in accordance with the procedure adopted in courts of law; and thirdly that, once the dispute has been submitted to a court of law, they should be able to rely upon their being no usurpation by any other person of the function of that court to decide it according to law. Conduct which is calculated to prejudice any of these three requirements or to undermine the public confidence that they will be observed is contempt of court".

4 As Professor Miller in his text Contempt of Court Third Edition notes in paragraph 5.04:

> "the first requirement of unhindered access to the Court would typically be violated by subjecting a party to proceedings to threats or improper pressure whether through a publication or privately or by holding them up to public vilification and abuse".

5 This form of contempt was analysed by the Full Court of the Supreme Court of Western Australia in *Resolute Limited v Warnes* [2000] WASCA 359 where a powerful quorum comprising Justices Kennedy, Ipp and Miller set out the appropriate principles (in the judgment of Justice Ipp with whom Justice Kennedy and Justice Miller concurred). Justice Ipp, commencing at paragraph 13 summarised the principles as follows:

> "(a) the charge must be established beyond reasonable doubt;
>
> (b) the claimant must prove, according to the criminal standard, that the published material has, as a matter of practical reality a real (or clear) and definite tendency to interfere with the course of justice in a particular case;

(c) because of its exceptional nature this summary jurisdiction has always been regarded as one, which is to be exercised with great caution;

(d) intention to interfere with the due administration of justice is not necessary to constitute a contempt. Where, however, intent to interfere has been proved, this has usually been sufficient to sustain a prosecution;

(e) the gravamen of the category of criminal contempt in which improper pressure is place on a party to court proceedings through public dissemination of material is the tendency to deter the litigant, improperly, from obtaining curial vindication of its rights. Successful interference with a party's conduct of proceedings is not necessary for proof of liability for contempt by improper pressure;

(f) it is an open question as to whether the tendency is to be measured against the capacity of the particular litigant involved to withstand pressure, or whether the Court should have in contemplation some hypothetical litigant of "ordinary" fortitude;

(g) in punishing certain types of interference with litigants the law distinguishes between proper and improper pressure."

6 These principles were reviewed by the Queensland Court of Appeal in *Day v Woolworths Group Limited* [2021] QCA 42, in the judgment of Justice Henry with whom Appeal Justice Mullins and Justice Williams concurred. See in particular [paragraph 37-39], where His Honour cites with obvious approval *Resolute Limited v Warnes*.

7 Applying these principles to the facts of the present case:

7.1 there can be no argument that the conduct of Mr Matic has been proved beyond reasonable doubt. The email was sent by him and the terms of the email are plainly in evidence;

7.2 the allegation made against the solicitor for the plaintiffs *"you've been put on Notice that you are committing fraud and submitting altered manipulating fabricated files and recordings that you know to be unauthentic and altered in order to gain a benefit by deception for yourselves personally for your client and furthermore to gain access by deception into the Trust of SANDI MATIC* combined with the following paragraph *"consider this as notice of intent to report a crime to Australian Federal Police and the organised crime squad of*

Western Australia" and the repeated references to fraud objectively have a very clear practical tendency to deter the plaintiffs from persisting in their action against Mr Matic.

8 The fact that the email was sent to Parliamentarians is calculated to further deter the litigant from proceeding with the litigation for fear of matters being raised in Parliament.

9 The pressure was plainly improper on any objection analysis. Further, by its terms, the email demonstrates a clear intention to interfere with the plaintiffs' conduct of their proceedings.

Conclusion

10 The Court should conclude that the criminal contempt is established. The question of penalty should be addressed following the decision of the Court.

M L Bennett

M L BENNETT
COUNSEL

List of Authorities

Case Authorities

1 *Attorney General v Times Newspaper Limited* [1974] AC 273 at 309

2 *Day v Woolworths Group Limited* [2021] QCA 42

3 *Resolute Limited v Warnes* [2000] WASCA 359

IN THE MAGISTRATES COURT
OF WESTERN AUSTRALIA
AT TERRACE ROAD

File No: 8011/2022

BETWEEN:

Anna Clare ROBINSON Applicant

AND

Sandi MATIC Respondent

BEFORE MAGISTRATE ANDERSON
ON 19 OCTOBER 2023

IT IS ORDERED THAT:-

Financial Proceedings

1. Until further order of the Court, the Respondent, SANDI MATIC, be restrained and an injunction is hereby granted restraining him from withdrawing or attempting to withdraw any funds or otherwise accessing, in any manner, the funds held in ANZ Bank account BSB 016-334 account number 399420575.

2. The Applicant, ANNA CLARE ROBINSON, have leave to provide a copy of this Order to ANZ Bank.

3. The financial proceedings stand adjourned pending judgment delivery.

4. The said proceedings otherwise be transferred to the Family Court of Western Australia.

By the Court

MAGISTRATE ANDERSON

IMPORTANT NOTE - FAMILY VIOLENCE

If you have concerns for your safety it is important you inform the Court in writing, preferably in the prescribed form and at least two weeks before the Court event.

For more information please call the Court's Call Centre on: 9224 8222 or
1800 199 228 or refer to www.familycourt.wa.gov.au

Magistrates Court 150 Terrace Road Perth WA
SEAL

IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV 1106 of 2022

BETWEEN:

VIVIEN JIT SIEN YAP

First Plaintiff

and

EMPIRE SONS (AUSTRALIA) PTY LTD
T/AS RAY WHITE (DALKEITH CLAREMONT) (ACN 604 259 145)

Second Plaintiff

and

SANDI MATIC

Defendant

AFFIDAVIT OF MARTIN LAWRENCE BENNETT SWORN 17 NOVEMBER 2022 AND ATTACHMENTS 'MLB-1' – 'MLB-4'

Date of Document:	17 November 2022
Filed on behalf of:	The First Plaintiff
Date of Filing:	17 November 2022

Prepared by:
Bennett
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

Tel: +61 8 6316 2200
Fax: +61 8 6316 2211
Ref: JLB: MLB:116086

INDEX

No	Description	Page No
1	Affidavit of Martin Lawrence Bennett	1 - 3

FILED
17 NOV 2022
Via eLodgment
CENTRAL OFFICE
SUPREME COURT

116086 (2187778)

2	‘**MLB-1**’ is a true copy of an email from the associate to Registrar Nelson of the Supreme Court of Western Australia to Mr Matic dated Tuesday, 15 November 2022, together with the attached letter and letter from Mr Matic to Registrar Nelson dated 3 November 2022	4 - 23
3	‘**MLB-2**’ is a true copy of the letter from Mr Matic to myself sent by registered mail to my private home address	24 - 41
4	‘**MLB-3**’ is a true copy of the the registered post envelope that contained the letter annexed hereto and marked as MLB-2	42 - 43
5	‘**MLB-4**’is a true copy of an email from me to Mr Matic dated 28 October 2022	44

I, MARTIN LAWRENCE BENNETT, of care of level 14 Floor, Westralia Square, 141 St Georges Terrace, Perth in the State of Western Australia, Barrister and Solicitor, being duly sworn make oath and say as follows:

1 I am a Principal of Bennett, the firm that acts on behalf of the Plaintiffs herein. I make this affidavit to update this Honourable Court on matters subsequent to the orders made by the Honourable Justice Solomon on 27 October 2022, the Court may consider relevant to the penalty hearing.

2 Now produced and shown to me and marked with the letters “**MLB-1**” and annexed hereto are true copies of an email from the Associate to Registrar Nelson of the Supreme Court of Western Australia to Mr Matic copied to my firm dated Tuesday, 15 November 2022, together with the attached letter from the Registrar and letter from Mr Matic to Registrar Nelson dated 3 November 2022.

3 Now produced and shown to me and marked with the letters “**MLB-2**” is a true copy of the letter from Mr Matic to myself sent by registered mail to my private home address.

4 Now produced and shown to me and marked with the letters "**MLB-3**" is a true copy of the registered post envelope that contained the letter annexed hereto and marked as MLB-2.

5 Now produced and shown to me and marked with the letters "**MLB-4**" is a true copy of an email from me to Mr Matic dated 28 October 2022.

SWORN by MARTIN)
LAWRENCE BENNETT at Perth)
in the said State of Western Australia)
the 17th day of November 2022)

Before me:

ALEXANDER JAMES THARBY

a legal practitioner who has held a practice
certificate for at least 2 years and who
holds a current practice certificate

Martin Bennett

From:	Sally Elliott
Sent:	Tuesday, 15 November 2022 12:34 PM
To:	Martin Bennett; Jessica Border
Cc:	Lucy Blakiston
Subject:	FW: CIV/1106/2022 - YAP & Anor v MATIC
Attachments:	CIV 1106 of 2021 - Letter 15.11.22.pdf; Letter from S Matic dated 3.11.2022.pdf

FYI – see below email and attachments.

From: Associate to Registrar Nelson <Associate.Registrar.Nelson@justice.wa.gov.au>
Sent: Tuesday, 15 November 2022 12:32 PM
To: sandi@konkrethaus.com.au
Cc: eLodgment <elodgment@bennettlaw.com.au>
Subject: CIV/1106/2022 - YAP & Anor v MATIC

Dear Mr Matic

I refer to the above matter.

Please see the **attached** letter from Registrar Nelson, copied to Bennett.

Kind regards,

Associate to Registrar Nelson
Supreme Court of Western Australia | Level 12, 28 Barrack Street, PERTH WA 6000

Disclaimer: The information contained in this e-mail may be private and personal or otherwise confidential. If you are not the intended recipient, any use, disclosure or copying of any part of the information is unauthorised. If you have received this e-mail in error, please inform the sender and delete the document.

SUPREME COURT OF WESTERN AUSTRALIA

David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000
Ph: (08) 9421 5333

15 November 2022

Mr S Matic
17 Biara Gardens,
MOUNT CLAREMONT, WA 6010

By Email: sandi@konkrethaus.com.au

cc: Bennett
Level 14, Westralia Square
141 St Georges Terrace
PERTH, WA 6000
By Email: elodgment@bennettlaw.com.au

Dear Mr Matic

CIV 1106 of 2022 | YAP & Anor v MATIC

I refer to the above matter, the Notice of Provisional Assessment dated 25 October 2022 and to your letter dated 3 November 2022 (received by the Court on 14 November 2022).

It does not appear that you have copied your letter to Bennett on behalf of the plaintiffs. Any correspondence with the Court should be copied to the solicitors for the other parties. I have copied this letter to Bennett on behalf of the plaintiffs and **enclosed** a copy of your letter for their information.

I have taken your letter to be an objection to my provisional assessment of the bill of costs filed by the plaintiffs on 19 October 2022.

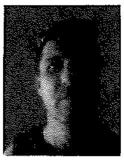
Unless all parties advise me within 7 days of the date of this correspondence that they wish to attend a confidential settlement conference in relation to the bill, the matter will be listed for a directions hearing before a different taxing officer.

Yours faithfully,

Registrar Nelson | Supreme Court of Western Australia

Encl.

Private



'Sandi', of the house "Matic" on behalf of "Sandi Matic"
11 Pearson Place
Floreat, Western Australia [6018]

03-11-2022

To the living man "Brendyn Nelson " in his Private and unlimited capacity,
acting as, "Registrar Nelson" for
"Supreme Court of Western Australia", "ABN 70 598 519 443"
Supreme Court of Western Australia
28 Barrack Street PERTH WA 6000
Via Registered post 945043773019

Re: Email Correspondence

We thank "Brendyn Nelson" for electronic correspondence dated "27 October 2022" and "Notice of Provisional Assessment" which we received today, 03-11-2022.

We do not understand the intent as there appears to be a misunderstanding as the correspondence was sent to 'Sandi' but addressed to "Bennett".

Notice of Conditional Acceptance

Sandi Matic in his inherent Jurisdiction accepts Brendyn Nelson's claim for value and offers to settle in the private upon "Martin Bennett" in his private capacity providing satisfactory proof to substantiate their claim that the living man 'Sandi', of the house "Matic""is "The Defendant" or "Defendant" or "Mr S Matic" in this matter.

1. Can Brendyn Nelson provide proof that the living man 'Sandi' , of the house "Matic" is "The Defendant" and/or "Defendant"? and/or Mr S Matic" ; and
2. Is your Notice of provisional assessment valid without a mark by whom it was made?; and
3. Does Brendyn Nelson agree that the Bill of Costs filed by " Plaintiffs" does not have a mark to validate whom it was submitted by?; and
4. Is this the usual practice of the court to receive unsigned documents as legal documents? ; and
5. Does the Registrar agree that there is no signature or mark by whom the Notice of provisional assessment is made by? ; and
6. Is this the usual practice of the court to issue Notices, Judgements or Orders without signature or mark as to whom is issuing such Notices, Judgements or Orders? ; and
7. If you do consider that the Bill of Costs document has been legally filed, is the court now open to receive claim of costs from Sandi? ; and
8. Is Brendyn Nelson willing to take the stand to testify to veracity of the above claim? ; and
9. Should this not be discharged with extreme prejudice for abuse of process? ; or

W1

POST 5c

LIA
PUS

02-1-2022

QB2694514

10. Should this not be treated as discharged for misrepresentation under S.18 of Australian Consumer Law and/or not compliant with JA.1903 S.80 and be void ab initio ex debito justitiae?

Notice

As the Principal in this matter, we 'Sandi', of the house "Matic" now NOTICE "Brendyn Nelson" that this is a cease -and-desist order until this dispute is finalized with the stipulation that any further contact will invoke the fees contained in Our Schedule of Fees for Remedy (**Annexure "D"**) and a Lien lodged on the PPSR against the personal property of "Brendyn Nelson".

Sandi

By: 'San Di' and on behalf of the living man
'Sandi', of the house "Matic"
Crown: Matic (De Facto)
Sovereign: Sandi (De Jure)
Private Persons Personal Representative: Christian
Principal, Executive Beneficiary and Authorised Representative for and of the copy right name and estate
SANDI MATIC ens legis and all derivatives thereof the legal names

011-2022

Annexure "O"

The People's Court of Terra Australis

Notice

Schedule of Fees for Remedy

of the living man

'Sandi', of the house "Matic"

This fee schedule is a lawful means of peacefully ensuring full "government"/"officer" and individual (personal and private) accountability for any and all unlawful actions committed against the living man 'Sandi', of the house "Matic", and is presented without malice, prejudice or frivolity and with love and compassion.

SCHEDULE

Item 1. Unlawful breach of copyright – unauthorised taking of any DNA sample and/or fingerprint of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 2. Unlawful breach of copyright – unauthorised recording of the image of the living man 'Sandi', of the house "Matic", including but not limited to video, photographic and/or surveillance cameras:

Rate = The sum-certain amount of Two-hundred-thousand Australian Dollars ($200,000 AuD) per incident;

Item 3. Unlawful breach of copyright – unauthorised recording of the vocal sounds of the living man 'Sandi', of the house "Matic", including but not limited to live speech, singing, phone calls and/or video:

Rate = The sum-certain amount of Two-hundred-thousand Australian Dollars ($200,000 AuD) per incident;

Item 4. Unlawful breach of copyright – unauthorised use of and/or publishing of any image, in or on any media, of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per incident;

Item 5. Unlawful breach of copyright – unauthorised use of and/or publishing of the name "SANDI MATIC" and/or "Sandi Matic" and/or "Sandi Matic" and/or "Matic, Sandi" and/or "Matic. Sandi, " and/or "Sandi Matic" and/or "Sandi, , Matic" and/or "Sandi

Before me:

W.G.

International POST

5c

AUSTRALIA

PLATYPUS

Matic" et alia, and/or any such upper case, "CAPITAL-LETTERED" or lower case variation of such, in any way, including but not limited to punctuation, initials, prefixes, suffixes, titles, appendages, and the like in any instrument, document, internet, or media – of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 6. Nonconsensual interactions, determined at the discretion of the living man 'Sandi', of the house "Matic", and/or unlawful detention, taking our time and preventing us from being able to continue on our way:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident (Engagement Fee) plus

The sum-certain amount of Two-hundred Australian Dollars ($200 AuD) per minute or part thereof for the duration of the unlawful detention;

Item 7. Wrongful or unlawful arrest, or the threat thereof, and/or being handcuffed and/or the threat thereof:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per threat;

Item 8. Issuing, or attempting to serve any instruments such as infringement notices:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per page;

Item 9. Issuing of any warrant/s and/or summons:

Rate = The sum-certain amount of Ten-thousand Australian Dollars ($10,000 AuD) per instrument;

Item 10. Deprivation or confiscation of any of our property:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per item per day or part thereof;

Item 11. Harassment/verbal threats and/or physical force from/by any "officer" used against our incarnate spirit, flesh-and-blood living-being self:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per incident plus

All subsequent medical and psychological costs because of trauma;

Item 12. Placing and locking in a police vehicle or transport against our will:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per incident;

Item 13. Detention in a police cell:

Rate = The sum-certain amount of Fifteen-thousand Australian Dollars ($15,000 AuD) per calendar day or part thereof;

Item 14. Forced or summoned appearance at an unlawful "court", "Magistrates Court" or

Before me:

W.G.

07-2021

International POST 5c AUSTRALIA PLATYPUS any such "Star Chamber" at any level:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per day;

Item 15. Detention or remand resulting in deprivation of liberty pursuant to any "court order", ruling, or decision:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per calendar day or part thereof;

Item 16. Violation of Oath of Office:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per violation;

Item 17. Slavery – forced Compliance to contract not held:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 18. Conspiracy:

Rate = The sum-certain amount of Twenty-thousand Australian Dollars ($20,000 AuD) per act;

Item 19. Fraud:

Rate = The sum-certain amount of Twenty-thousand Australian Dollars ($20,000 AuD) per act;

Item 20. Perjury:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per act;

Item 21. Car Jacking:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 22. Aggravated Kidnap:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per incident;

Item 23. Trespass and/or violation of Notice of Trespass of property and/or physical body:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per incident;

Item 24. Battery – intentional and unpermitted contact with the body of the living man 'Sandi' of the house "Matic" or anything attached to it and practically identified with it:

Rate = The sum-certain amount of Ten-thousand Australian Dollars ($10,000 AuD) per incident;

Item 25. Defamation:

Before me:

W.G JA

F3

07 6/2022

International POST
5c
AUSTRALIA
PLATYPUS

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 26. Extortion:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 27. Unverified claims in writing:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per claim;

Item 28. Processing and/or responding to each letter/notice sent by mail/courier and/or email, unsolicited without consent, to the estate bearing the name/s "Sandi Matic", "Sandi Matic", "Sandi Matic", "Matic, Sandi", "Matic. Sandi, ", "Sandi Matic", "Sandi, , Matic" or "Sandi Matic" et alia, and/or any such upper case, "CAPITAL-LETTERED" or lower case variation of such, in any way, including but not limited to punctuation, initials, prefixes, suffixes, titles, appendages, and the like

Rate = The sum-certain amount of Two-thousand Australian Dollars ($10,000 AuD) per A4 page;

Item 29. Unauthorised attempts to contact by telephone and/or mobile phone and/or email without consent:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per attempt;

Item 30. Denial of due process in law and/or denial of a jury:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per act;

Item 31. Personage:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per act;

Item 32. Barratry:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per act;

Item 33. Denial of due process in law and/or denial of a jury:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per act;

Item 34. Attempting to act as an Executor de son Tort without authority:

Rate = The sum-certain amount of Five-hundred-thousand Australian Dollars ($500,000 AuD) per attempt;

Item 35. Loss of income, loss of funds or damages resulting from any of the above items

Rate = The value of the lost income or funds, plus damages multiplied by four.

Before me:

W.G JA

07-1-2012

International POST
5c
AUSTRALIA
PLATYPUS

All of the above items are independent and cumulative and we reserve all rights to adjust and change this fee schedule at any time as we choose.

These fees are separate and cumulative and will accrue interest from the payment date of the invoice served at 5% per month cumulative. This schedule of fees is exclusive of any subsequent criminal or civil claims brought against the offender.

All payments are to be made in the following methods, in the equivalent mid-market value of the Australian Dollar as calculated either on the day of the invoice being printed, or the day of payment, whichever has the higher monetary value.

- 99.9999% pure Gold
- 99.9999% pure Sterling Silver (Troy weight, to the Bourse value of Sterling Silver)
- Bitcoin
- Australian Dollar Notes (Cash only)
- Any other payment method as agreed
- Cheques, credits and bank account deposits are not acceptable.

Offenders/recipients will have ten (10) days to dispute on the invoice served any items claimed above, with a sworn "affidavit" of rebuttal, signed under penalty of perjury. Failure to respond in the allotted time, means full acceptance and agreement herein of the payment as indicated on the invoice by the payment date.

Sandi

'Sandi', of the house "Matic"

Before me:

W.G. JA

D4

07/1/2022

International POST 5c AUSTRALIA PLATYPUS

bankwest

Payment - Faster payment

from account	BANKWEST EASY TRANSACTION 306-058 0643742
name	SANDI MATIC
payment description	Nelson 945043773019
payment type	FASTER PAYMENT
processing date	03/11/2022
processing time	16:55:58 (WA)
debit amount	$5.00
payment no.	705412152
payment status	**ACCEPTED**

Payments

Recipient	account / PayID	Narration	Amount
SANDI MATIC - PRINCIPAL	306-188 0000234		$5.00

Total Payment Amount **$5.00**

History

Date & Time	Action	User Name
03/11/2022 16:55:56 (WA)	APPROVE	MATIC, SANDI
03/11/2022 16:55:56 (WA)	CREATE	MATIC, SANDI
03/11/2022 16:55:56 (WA)	SAVE	MATIC, SANDI

PAID
03/11/2022

07-11-2022

International POST
5c
AUSTRALIA
PLATYPUS

4520014514

Received in
Email 03-10-22 SMP

SUPREME COURT OF WESTERN AUSTRALIA

David Malcolm Justice Centre
28 Barrack Street
Perth WA 6000
Ph: (08) 9421 5125

Why is there NO ABN?

25 October 2022

ENQUIRIES : Associate to Registrar Nelson
Email : Associate.Registrar.Nelson@justice.wa.gov.au

Bennett
Level 14, Westralia Square
141 St Georges Terrace
PERTH, WA 6000
By Email: elodgment@bennettlaw.com.au

Mr S Matic
17 Biara Gardens,
MOUNT CLAREMONT, WA 6010

By Email: sandi@konkrethaus.com.au

NOTICE OF PROVISIONAL ASSESSMENT

Dear parties

CIV 1106 of 2022 YAP & Anor v MATIC

unsigned?

I refer to the above-named proceeding and to the plaintiffs' bill of costs filed on 19 October 2022.

Pursuant to *Supreme Court of Western Australia Consolidated Practice Directions* 4.7.2, Registrar Nelson considered the bill to be suitable for provisional assessment.

Is the bill of costs valid?

Who?

The Registrar has conducted a provisional assessment of the bill and proposes allowing the bill in the sum of $12,846.96.

What does this mean?

Pursuant to Practice Direction 4.7.2 the parties have 21 days from the date of this letter to file any objections to the provisional assessment, failing which the Registrar will sign a certificate of taxation at **4.00pm on 15 November 2022** without further notice to the parties.

What does this symbol mean?

Yours sincerely,

Fictional Entity

Associate to Registrar Nelson

Who sent this correspondence?
I do not understand

International POST
5c
AUSTRALIA
PLATYPUS

"MLB-2"

Private

RED KANGAROO
AUSTRALIA
$1

'Sandi', of the house "Matic" on behalf of "Sandi Matic"
11 Pearson Place
Floreat, Western Australia [6018]

03-11-2022

"Martin Lawrence Bennett" in his private and personal capacity,
7 Peebles Road
Floreat, Western Australia [6014]
email mbennett@bennettlaw.com.au
AusPost registered mail ~~945970094010~~
945043771015

Sandi

Without Prejudice

We, the underwriters, thank Martin Bennet for his correspondence sent via email on 4 October 2022 which was quarantined by our spam filter and only successfully received today, 03-11-2022. but it appears to be a case of mistaken identity.

There appears to be a mistake as although the correspondence was sent to "Mr Sandi Matic" it was addressed to "You". Whilst the correspondence was addressed to "Mr Matic'" but sent to "You".

Notice of Conditional Acceptance

"Martin Bennett" is hereby noticed that, We at all times promise to pay any alleged outstanding ammounts and conditionally accept any lawfully entered contract upon "Martin Bennett" under his own full commercial capacity with clean hands in equity providing full, complete, certain and not misleading disclosure with s satisfactory proof that the living man Sandi is "You"

Failure by "Martin Bennett" to respond within fourteen [14] days of this correspondence shall constitute legal accord and satisfaction of all claims.

Notice

As the Principal in this matter, we 'Sandi', of the house "Matic" now NOTICE "Martin Bennett" that this is a cease -and-desist order until this dispute is finalized with the stipulation that any further contact will invoke the fees contained in Our Schedule of Fees for Remedy (Annexure "D") and a Lien lodged on the PPSR against the personal property of "Martin Bennett".

By 'San Di' and 'Sandi', of the house "Matic"
on behalf of "Sandi Matic"
Crown: Matic (De Facto)
Sovereign: Sandi (De Jure)
Private Persons Personal Representative: Christian
Principal, Executive Beneficiary and Authorised Representative for and of the copy right name and estate SANDI MATIC ens legis and all derivatives thereof the legal names

07-11-2022

International POST
5c
AUSTRALIA
PLATYPUS

Annexure "D"

The People's Court of Terra Australis

Notice

Schedule of Fees for Remedy

of the living man

'Sandi', of the house "Matic"

This fee schedule is a lawful means of peacefully ensuring full "government"/"officer" and individual (personal and private) accountability for any and all unlawful actions committed against the living man 'Sandi', of the house "Matic", and is presented without malice, prejudice or frivolity and with love and compassion.

SCHEDULE

Item 1. Unlawful breach of copyright – unauthorised taking of any DNA sample and/or fingerprint of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 2. Unlawful breach of copyright – unauthorised recording of the image of the living man 'Sandi', of the house "Matic", including but not limited to video, photographic and/or surveillance cameras:

Rate = The sum-certain amount of Two-hundred-thousand Australian Dollars ($200,000 AuD) per incident;

Item 3. Unlawful breach of copyright – unauthorised recording of the vocal sounds of the living man 'Sandi', of the house "Matic", including but not limited to live speech, singing, phone calls and/or video:

Rate = The sum-certain amount of Two-hundred-thousand Australian Dollars ($200,000 AuD) per incident;

Item 4. Unlawful breach of copyright – unauthorised use of and/or publishing of any image, in or on any media, of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per incident;

Item 5. Unlawful breach of copyright – unauthorised use of and/or publishing of the name "SANDI MATIC" and/or "Sandi Matic" and/or "Sandi Matic" and/or "Matic, Sandi" and/or "Matic. Sandi, " and/or "Sandi Matic" and/or "Sandi, , Matic" and/or "Sandi

Before me:

W.G. QD JA

07-1 2022

Matic" et alia, and/or any such upper case, "CAPITAL-LETTERED" or lower case variation of such, in any way, including but not limited to punctuation, initials, prefixes, suffixes, titles, appendages, and the like in any instrument, document, internet, or media – of the living man 'Sandi', of the house "Matic":

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 6. Nonconsensual interactions, determined at the discretion of the living man 'Sandi', of the house "Matic", and/or unlawful detention, taking our time and preventing us from being able to continue on our way:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident (Engagement Fee) plus

The sum-certain amount of Two-hundred Australian Dollars ($200 AuD) per minute or part thereof for the duration of the unlawful detention;

Item 7. Wrongful or unlawful arrest, or the threat thereof, and/or being handcuffed and/or the threat thereof:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per threat;

Item 8. Issuing, or attempting to serve any instruments such as infringement notices:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per page;

Item 9. Issuing of any warrant/s and/or summons:

Rate = The sum-certain amount of Ten-thousand Australian Dollars ($10,000 AuD) per instrument;

Item 10. Deprivation or confiscation of any of our property:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per item per day or part thereof;

Item 11. Harassment/verbal threats and/or physical force from/by any "officer" used against our incarnate spirit, flesh-and-blood living-being self:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per incident plus

All subsequent medical and psychological costs because of trauma;

Item 12. Placing and locking in a police vehicle or transport against our will:

Rate = The sum-certain amount of Five-thousand Australian Dollars ($5,000 AuD) per incident;

Item 13. Detention in a police cell:

Rate = The sum-certain amount of Fifteen-thousand Australian Dollars ($15,000 AuD) per calendar day or part thereof;

Item 14. Forced or summoned appearance at an unlawful "court", "Magistrates Court" or

Before me:

W.G.

D1

International POST
5c
AUSTRALIA
PLATYPUS

any such "Star Chamber" at any level:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per day;

Item 15. Detention or remand resulting in deprivation of liberty pursuant to any "court order", ruling, or decision:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per calendar day or part thereof;

Item 16. Violation of Oath of Office:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per violation;

Item 17. Slavery – forced Compliance to contract not held:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 18. Conspiracy:

Rate = The sum-certain amount of Twenty-thousand Australian Dollars ($20,000 AuD) per act;

Item 19. Fraud:

Rate = The sum-certain amount of Twenty-thousand Australian Dollars ($20,000 AuD) per act;

Item 20. Perjury:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per act;

Item 21. Car Jacking:

Rate = The sum-certain amount of Two-hundred-and-fifty-thousand Australian Dollars ($250,000 AuD) per incident;

Item 22. Aggravated Kidnap:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per incident;

Item 23. Trespass and/or violation of Notice of Trespass of property and/or physical body:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per incident;

Item 24. Battery – intentional and unpermitted contact with the body of the living man 'Sandi' of the house "Matic" or anything attached to it and practically identified with it:

Rate = The sum-certain amount of Ten-thousand Australian Dollars ($10,000 AuD) per incident;

Item 25. Defamation:

Before me:

W.G JA

D2

07 2022

International POST
5c
AUSTRALIA
PLATYPUS

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 26. Extortion:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per incident;

Item 27. Unverified claims in writing:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per claim;

Item 28. Processing and/or responding to each letter/notice sent by mail/courier and/or email, unsolicited without consent, to the estate bearing the name/s "Sandi Matic", "Sandi Matic", "Sandi Matic", "Matic, Sandi", "Matic. Sandi, ", "Sandi Matic", "Sandi, , Matic" or "Sandi Matic" et alia, and/or any such upper case, "CAPITAL-LETTERED" or lower case variation of such, in any way, including but not limited to punctuation, initials, prefixes, suffixes, titles, appendages, and the like

Rate = The sum-certain amount of Two-thousand Australian Dollars ($10,000 AuD) per A4 page;

Item 29. Unauthorised attempts to contact by telephone and/or mobile phone and/or email without consent:

Rate = The sum-certain amount of Two-thousand Australian Dollars ($2,000 AuD) per attempt;

Item 30. Denial of due process in law and/or denial of a jury:

Rate = The sum-certain amount of One-million Australian Dollars ($1,000,000 AuD) per act;

Item 31. Personage:

Rate = The sum-certain amount of Fifty-thousand Australian Dollars ($50,000 AuD) per act;

Item 32. Barratry:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per act;

Item 33. Denial of due process in law and/or denial of a jury:

Rate = The sum-certain amount of One-hundred-thousand Australian Dollars ($100,000 AuD) per act;

Item 34. Attempting to act as an Executor de son Tort without authority:

Rate = The sum-certain amount of Five-hundred-thousand Australian Dollars ($500,000 AuD) per attempt;

Item 35. Loss of income, loss of funds or damages resulting from any of the above items

Rate = The value of the lost income or funds, plus damages multiplied by four.

Before me:

W.G JA

D3

Coral Rabbitfish

2010

07/12 002

All of the above items are independent and cumulative and we reserve all rights to adjust and change this fee schedule at any time as we choose.

These fees are separate and cumulative and will accrue interest from the payment date of the invoice served at 5% per month cumulative. This schedule of fees is exclusive of any subsequent criminal or civil claims brought against the offender.

All payments are to be made in the following methods, in the equivalent mid-market value of the Australian Dollar as calculated either on the day of the invoice being printed, or the day of payment, whichever has the higher monetary value.

- 99.9999% pure Gold
- 99.9999% pure Sterling Silver (Troy weight, to the Bourse value of Sterling Silver)
- Bitcoin
- Australian Dollar Notes (Cash only)
- Any other payment method as agreed
- Cheques, credits and bank account deposits are not acceptable.

Offenders/recipients will have ten (10) days to dispute on the invoice served any items claimed above, with a sworn "affidavit" of rebuttal, signed under penalty of perjury. Failure to respond in the allotted time, means full acceptance and agreement herein of the payment as indicated on the invoice by the payment date.

Sandi

'Sandi', of the house "Matic"

Before me:

W.G. JA

F5

07-5-2022

International POST
5c
AUSTRALIA
PLATYPUS

Received 03-11-2022

Bennett
LITIGATION AND COMMERCIAL LAW

Our ref:	JLB:MLB:116677
Contact:	Jess Border
Direct Line:	+61 8 6316 2276
Email:	jborder@bennettlaw.com.au
Contact:	Martin Bennett
Direct Line:	+61 8 6316 2255
Email:	mbennett@bennettlaw.com.au

4 October 2022

Mr Sandi Matic
11 Pearson Place
FLOREAT WA 6014
~~**By Email: sandi@konkrethaus.com.au**~~

Decline the offer to contract

Dear Mr Matic

Who is this?

Living man can not be Part of OIUL

Vivien Jit Sien Yap and Anor v ~~Sandi Matic~~ | Supreme Court proceedings CIV 2008 of 2022
Vivien Jit Sien Yap and Anor v Sandi Matic | Supreme Court proceedings CIV 1106 of 2022

We write in relation to the above proceedings. This is an open communication. ~~You~~ should consult a lawyer if you are in any doubt as to these matters. ?

Preliminary comments

In this letter, we refer to the operation of orders made by the Supreme Court, a Court with jurisdiction to make such orders. You should, by now, be aware of the application of such orders.

Who?

For the avoidance of doubt, this letter is addressed to you, Mr Sandi Matic. Despite persistent queries made and arguments advanced by you in relation to the identity of the defendant, including an attempt to draw a distinction between your individual self and a "juridical" person, the orders made in each of the above proceedings apply to you in your personal capacity.

is martin attempting to threaten?

As we (the plaintiffs' solicitors), and the Court have emphasised previously on numerous occasions, you are the first defendant. Neither the plaintiffs, nor the Court, recognise or accept the purported distinction between you ('the living breathing man and natural person') and your 'legally generated entity' or 'trust'. To the extent that you seem to rely on sources such as "thepeoplescourtofterraaustralis.org", the content of that which is entirely worthless.

Permanent injunctions

On 2 September 2022, Justice Solomon:

1 dismissed your application for summary judgment against the plaintiffs; and

2 entered default judgment in favour of the plaintiffs.

?please Provide Proof of valid judgement or order

We write to set out the implications of the default judgment.

B
Whadjuk Noongar Boodja
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

PO Box 7766
Cloisters Square
PERTH WA 6850

T +61 8 6316 2200
F +61 8 6316 2211
bennettlaw.com.au

Lawfirst Pty Ltd
ABN 69 147 622 197
An incorporated legal practice
trading as Bennett.

Liability limited by a scheme approved under Professional Standards Legislation.

R,

07-11-2022

International POST
5c
AUSTRALIA
PLATYPUS

Received 03-11-2022

You are permanently restrained and an injunction has been granted restraining you from:

1 attending or attempting to attend at any premises at which the first and/or second plaintiff are conducting and invited public viewing or "home open" in respect to the proposed sale of such premises;

2 erecting signage or any form of public notice of or concerning first and/or second plaintiff at such properties or in respect of the first and/or the second plaintiff's sale of such properties;

3 threatening economic reputational of physical harm to the plaintiffs.

The Court also made orders that you pay the plaintiffs' damages, to be assessed, as well as the plaintiffs' costs of the application for injunctive relief.

We will shortly file with the court the plaintiffs' bill of costs and apply for a taxation (that is a Court review) of those costs. You will be liable for payment of those costs in accordance with the Court's orders.

The plaintiffs will not hesitate to take enforcement action to enforce their costs if enforcement action is required.

Further injunctions

At the hearing on 3 October 2022, of which you had ample notice, the Court made orders in favour of the plaintiffs. These included:

1 interlocutory orders restraining you from publishing any affidavits in CIV 1106 of 2022 and CIV 2008 of 2022 on the internet, any other public notice board, or any other means by which the material would be publicly available and requiring you to remove any already published affidavits;

2 an order requiring you to file an appearance by 10 October 2022. If you file an appearance you may be able to make submissions as to why the Court should not make an indemnity cost against you in favour of the Plaintiffs.

We *enclose* with this letter a copy of those orders.

The Court requested us to emphasise that publication of any of the affidavits in either of the proceedings would constitute a contempt of Court.

If you do not file an appearance, the plaintiffs will seek default judgment for orders restraining you permanently from publishing affidavits in the proceedings.

Consequences of acting in contempt of Court

The rule of law has at its foundation the authority of the Court to make effective orders.

Disobedience of these orders is one manner that constitutes a contempt. Order 55 Rule 7 of the Rules of the Supreme Court provide a range of sanctions which may be imposed by the Court. These include:

1 a power to order the arrest and imprisonment of a contemnor;

2 a power to substantive fines;

3 a power to seize assets.

We emphasise that you are already facing two applications to commit you for your contempt. If you were to disobey these orders it would be at your peril.

R2

07-11-2011

International POST

5c

AUSTRALIA
PLATYPUS

Recevd 03-11-2022

Trust funds from sale of Biara Gardens property

We are instructed that the plaintiffs presently hold the commission from the sale of the Biara Gardens property in their trust account.

Now that the proceedings for injunctive relief have been finally determined, we have instructed our clients that they can authorise the removal of the agreed commission from the account.

Yours sincerely

Where do ya derive your authority? Please advise via Substantive and irrefutable proof.

Martin Bennett
Founding Principal

Encl.

R3

07-11-2022

International POST 5c
AUSTRALIA
PLATYPUS

"MLB-3"

Registered Post

AUSTRALIA POST

250g Max weight | **5mm** Max thickness

Prepaid envelope

POSTAGE PAID AUSTRALIA

13. 11. 22 22h21

Parcel Post

Signature on delivery

For use with domestic parcels only

63321720813060

63321720813060

Official Use

AR

Optional service

Person to Person

Affix label here

To: Company name Martin Bennett

Attention 7 Peebles Road Mobile no.*

PO Box number or street address

Suburb or town Floreat State WA Postcode 6014

Registered Post

AUSTRALIA POST

Sender's name: Sandi

Address: 11 Pengsen Place

Floreat Postcode 6[illegible]14

FEATURES

This Registered Post product provi
- Prepaid postage for one posting to an
- A unique identification number for e
- Proof of posting when lodged over th retail outlet
- Signature obtained on delivery
- Compensation for loss or damage of
- Discounts for packs of 10 envelopes

For more information ask at a partic retail outlet, visit **auspost.com.au/r** or **call 13 POST (13 7678)**.

sustainable forest

australian made

OPTIONAL SERVICES

Sender to ☑ selected Optional Services on the Lodgement Receipt. Additional fees are payable for each.

Staff at participating Australia Post retail outlets will provide assistance and further information.

Extra Cover:
- When sending articles exceeding $100 in value, Extra Cover may be purchased for loss or damage up to $5,000 (some exclusions).

Delivery Confirmation:
- Complete a Delivery Confirmation Card and lodge it with your envelope.
- The recipient will sign the card when the article arrives.
- The card is postmarked and returned to you by post.

Person to Person:
- Affix a Person to Person label in the space provided on the front of the envelope.
- The article will then ONLY be delivered to the addressee.#
- Proof of identity will be requested prior to the article being handed over.

CHECKLIS

Please che
- The deliver including postcode
- The sender omplete
- The Lodger s completed and signed
- This envelo 0 grams or 5mm in thickness when post

LODGEME

- **Australia** odge this item over the counter at any reta

* An SMS essee advising that this article is available tralia Post retail outlet.

† Subject nd conditions.

A Perso addressed delivered t guardian. article add may be de authorised

9 312650 446383

Martin Bennett

From: Martin Bennett
Sent: Friday, 28 October 2022 9:57 AM
To: Sandi Matic (@KonkretHaus)
Subject: CIV 1106 of 2022 | YAP & Anor v MATIC - finding of guilt – guilty of contempt of Court [116086]

Mr Matic

As you know yesterday afternoon Justice Solomon found that your conduct in sending an email of 16 March 2022 constituted a contempt of Court. In your absence a penalty hearing has been adjourned off to be listed in November. In preparing for the penalty hearing, it may help you to look at the Supreme Court decision in *Chief Executive Officer, Department of Environment and Conservation v Szulc* [No 2] 2011 WASC 315. That was a decision of the former Chief Justice of the Supreme Court, Chief Justice Wayne Martin. In the decision the Court canvasses the factors that it will consider in determining what sentence to apply, it being the case that *"the punishment to be applied is purely a matter within the discretion of the Court"* (see [56] of the judgment in *Szulc)*. The factors that the Court considers are as follows:

1. the seriousness of the contempt;
2. the context in which the contempt was committed – whether the contempt was wilful, deliberate, pre-meditated and undertaken for advantage;
3. whether you were aware of the consequences to yourself of what you did;
4. whether there has been any apology or public expression of contrition by you;
5. your character and antecedents (this would include whether the effect of a punishment (for example a custodial sentence) would impact other people such as your children);
6. general and personal deterrents – general deterrents being to discourage others from taking the course of conduct that constituted contempt:
   a. personal deterrent being [71 *Szulc* judgment] making it clear to you that "[you] *must obey the law and must obey the authority of the Court*"; and
   b. finally the importance of denouncing the contempt that has been committed.

Justice Solomon yesterday reserved the costs of Ms Yap's application to the penalty hearing.

His Honour asked me to make it clear to you that precedent cases establish the general proposition that where a person (yourself) has been found guilty of contempt of Court, it would ordinarily be the case that the Court orders you to pay the applicant (Ms Yap's) legal costs of the application on an indemnity basis. The Court has not decided whether to make such an order but I was asked to make clear to you that the starting point in any discussion as to the costs orders will be for you to persuade the Court why the normal practice – ordering indemnity costs – should not be made.

I urge you to see a solicitor. A custodial sentence is a realistic likely outcome of the penalty hearing.

Bennett
LITIGATION AND COMMERCIAL LAW

FIRST TIER
DOYLES
LITIGATION
2022

Martin Bennett
Founding Principal

T +61 8 6316 2200
D +61 8 6316 2255
M +61 417 995 551
mbennett@bennettlaw.com.au

Whadjuk Noongar Boodja
Level 14, Westralia Square
141 St Georges Terrace
PERTH, WA 6000

bennettlaw.com.au

Follow us on LinkedIn

BENNETT | Liability limited by a scheme approved under Professional Standards Legislation. This email is confidential. If you are not the intended recipient you must not disclose or use the information contained in it. If you have received this email in error please notify us immediately by return email and delete the document. Bennett is not responsible for any changes made to a document other than those made by Bennett or for the effect of the changes on the document's meaning. Bennett accepts no liability for any damage caused by this email or its attachments due to viruses, interference, interception, corruption or unauthorised access.

Bennett
LITIGATION AND COMMERCIAL LAW

Our ref: MLB:116086
Contact: Martin Bennett
Direct Line: +61 8 6316 2255
Email: mbennett@bennettlaw.com.au

23 November 2022

Associate to the Honourable Justice Solomon
Supreme Court of Western Australia
28 Barrack Street
PERTH WA 6000
By Email: associate.justice.solomon@justice.wa.gov.au

Dear Associate

Yap & Anor v Matic | Supreme Court of WA CIV 1106 of 2022

I write in respect to the hearing listed for Friday morning.

To assist Mr Matic's preparation for the hearing I have prepared short submissions on behalf of the applicants summarising the applicants' submissions as to penalty. The submissions have been filed at the Court but I *attach* to this email a PDF copy of the same (given the difficulty of efiling a legible copy of the page from The West Australian newspaper yesterday.

I also *attach* copies of the two authorities referred to in the submissions. For Mr Matic's convenience I *attach* a copy of the Reasons for Decision for the finding of contempt.

Yours faithfully

Martin Bennett
Founding Principal

Encl.

B
Whadjuk Noongar Boodja
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

PO Box 7766
Cloisters Square
PERTH WA 6850

T + 61 8 6316 2200
F + 61 8 6316 2211
bennettlaw.com.au

Lawfirst Pty Ltd
ABN 69 147 622 197
An incorporated legal practice
trading as Bennett.

Liability limited by a scheme approved under Professional Standards Legislation.

IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV/1106/2022

BETWEEN:

Vivien Jit Sien YAP and Anor Plaintiffs

AND

Sandi MATIC Defendant

ORDERS OF JUSTICE SOLOMON
MADE ON 1 AUGUST 2022

IT IS ORDERED that:

1. By 10 August 2022, the defendant file and serve his defence.
2. The first plaintiff has leave to amend her chamber summons dated 22 March 2022 in accordance with the proposed amended chamber summons annexed at Annexure A.
3. The first plaintiff's application for committal of the defendant for contempt of court be determined by reference to the amended chamber summons.
4. The application for committal of the defendant in accordance with the amended chamber summons be adjourned for directions together with the matter generally to 4.30pm on 11 August 2022.
5. By 5 August 2022, the plaintiff file and serve a minute of proposed orders in respect of the further conduct of the application for committal of the defendant for contempt of court.
6. The application of the plaintiff for costs of the application for injunctive relief including in respect of the hearing of 23 May 2022 be adjourned to 4.30pm on 11 August.
7. The costs of and incidental to the hearing of 1 August 2022 are reserved until the directions hearing at 4.30pm on 11 August.

BY THE COURT

THE HONOURABLE JUSTICE M SOLOMON

THE SEAL OF THE SUPREME COURT OF WESTERN AUSTRALIA

‘ANNEXURE A’

IN THE SUPREME COURT OF WESTERN AUSTRALIA

CIV 1106 of 2022

BETWEEN:

VIVIEN JIT SIEN YAP

First Plaintiff

and

EMPIRE SONS (AUSTRALIA) PTY LTD T/AS RAY WHITE (DALKEITH CLAREMONT) (ABN 41 604 259 145)

Second Plaintiff

SANDI MATIC

Defendant

AMENDED CHAMBER SUMMONS FOR COMMITTAL OF THE DEFENDANT FOR CONTEMPT OF COURT PURSUANT TO ORDER 55 RULE 4(2) OF THE *RULES OF THE SUPREME COURT 1971*

Allocated Judge Justice Solomon
Date of Document: ~~22 Mach~~ 2022
Filed on behalf of: First Plaintiff
Date of Filing: ~~22 March~~ 2022

Prepared by:
Bennett + Co
Ground Floor
28 The Esplanade
PERTH WA 6000

Tel: (08) 6316 2200
Fax: (08) 6316 2211
Ref: JLB:MLB:116086

LET ALL PARTIES concerned attend the Judge in Chambers on the ———12th day of April, 2022, at o’clock in the noon, on the hearing of an application by the first plaintiff for orders that:

1 The defendant be committed for contempt of this Honourable Court, by his conduct in threatening the first plaintiff in an email sent by the defendant to Mr

Martin Bennett dated 1~~5~~6 March 2022 in breach of order 1(iv) of the Orders of Justice Solomon made 11 February 2022 as this Honourable Court thinks fit.

2 The defendant pay the first plaintiff's costs of this application on an indemnity basis to be assessed and paid forthwith.

DATED the ~~22nd day of March~~ 2022

BENNETT + CO
Solicitors for the First Plaintiff

This summons was taken out by Bennett + Co, solicitor for the first plaintiff whose address for service is Ground Floor, 28 The Esplanade, Perth WA 6000.

To: The Defendant

of: 17 Biara Gardens
Mount Claremont WA 6010

NGN NEGOTIABLE
NON TRANSFERABLE
WITHOUT RECOURSE

M

Private

Time Sensitive Documents
Estoppel Conditions Apply Upon Default

'Sandi', of the house "Matic" on behalf of "Sandi Matic"
11 Pearson Place
Floreat, Western Australia [6018]

30-11-2022

"Martin Lawrence Bennett" in his private and personal capacity,
trading as "Bennett + Co"
7 Peebles Road
Floreat, Western Australia [6014]
email mbennett@bennettlaw.com.au

Re: Invitation to Attend Private Meeting and Offer to Contract

We, the underwriters, thank Martin Bennett for his correspondence sent via email on 23-11-2022, delivered by "Process Server" that answers to name "Cherryl Harrison" which was addressed to a dead entity but mistakenly given to living man, "Sandi Matic".

Notice of Non-Response

We have pointed out this Is case of to be a case of mistaken identity at least three[3] times prior to this correspondence however offered you Condititional Acceptance of your claim provided that Martin Bennet in his private and unlimited capacity shows evidence to substantiate his claim.

Martin Bennett did not reply to any of our attempts to honour his claim thereby dishonoured our presentment.

Notice of Declining to Contract and Notice to Cease and Desist

Without dishonour, We decline to attend the meeting that Martin Bennett is inviting us today given we have no business to discuss.

Martin Bennett is hereby ordered to Cease and Desist all unsolicited and unlawful correspondenee via email, text, process server or publically via media with private living man Sandi Matic.

Sandi Matic in his inherant jurisdiction will happily consider any future offers to contract, provided that Martin Bennett correspond to us using Australia Post Registered mail and tcyjar 5%% his indemnity bond.

We consider this matter settled and closed.

By: 'Sa[illegible] for and on behalf of the living man
'Sandi', of the hoSse "Matic"
Crown: Matic (De Facto)
Sovereign: Sandi (Dejure)
Private Persons Personal Representative: Christian
Principal, Executive Beneficiary and Authorised Representative for and of the copy right name and estate SANDI
MATIC ens legis and all derivatives thereof tap legal names

30-11-2022
Sandi

Copyright in this document is reserved to the State of Western Australia. Reproduction of this document (or part thereof, in any format) except with the prior written consent of the Attorney General is prohibited. Please note that under section 43 of the Copyright Act 1968 copyright is not infringed by anything reproduced for the purposes of a judicial proceeding or of a report of a judicial proceeding.

THE SUPREME COURT OF

WESTERN AUSTRALIA

CIV 1106 of 2022

VIVIEN JIT SIEN YAP
and
EMPIRE SONS (AUSTRALIA) PTY LTD
T/AS RAY WHITE (DALKEITH CLAREMONT)

and

SANDI MATIC

SOLOMON J

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON FRIDAY, 11 FEBRUARY 2022, AT 10.32 AM

MR M.L. BENNETT appeared for the plaintiffs.

THE ASSOCIATE: In the Supreme Court of Western Australia, calling civil matter 1106 of 2022, Yap & Anor v Matic.

BENNETT, MR: If it please your Honour, I appear on behalf of the plaintiffs.

SOLOMON J: Yes. Mr Bennett, I'm – if you're comfortable, I'm happy for you to take your mask off while you're speaking.

BENNETT, MR: Thank you, your Honour. Thank you for hearing this matter, your Honour. Can I inquire whether your Honour has had an opportunity to read the papers?

SOLOMON J: Yes, I have. I have, and I'm – this is what I'm inclined to do.

BENNETT, MR: Sure.

SOLOMON J: I've got a couple of questions but, generally speaking, I'm inclined to grant the injunction and have it returned Monday morning.

BENNETT, MR: Yes, your Honour.

SOLOMON J: How are you placed Monday morning, Mr Bennett?

BENNETT, MR: I will make myself available, your Honour.

SOLOMON J: All right. Well, I wondered whether it might be possible to put forward the next return date to obtain an affidavit from – I think it's Mr Mead - - -

BENNETT, MR: Yes.

SOLOMON J: - - - who took the telephone calls?

BENNETT, MR: Yes.

SOLOMON J: It would assist me if we could have an affidavit from him confirming what appears to – well, I assume that annexure to 5 to Mr Yap's affidavit is his note. But confirming his note, confirming its contents.

BENNETT, MR: Yes.

SOLOMON J: Right. Thank you. Let me just, then, confirm what I've got. I've got the writ of summons. I have a court's letter – the letter to the court from yesterday. I have the certificate of urgency. I have the minute of orders, and we will come back to that, because I – we will work through that, I think, here and now. What I would like to do, Mr Bennett, is make sure we get the orders right, and then we will issue and – I will sign them now.

BENNETT, MR: Yes.

SOLOMON J: And then I've got the first plaintiff's undertaking as to damages. I have the second plaintiff's undertaking as to damages. And I have the affidavit of Vivien Jit Sien Yap.

BENNETT, MR: You should have a certificate of urgency.

SOLOMON J: Yes. I've got a certificate of urgency, and I have an order 59 rule to a memorandum supporting waiver of conferral, a notice of motion for interlocutory injunction, and I think that's everything.

BENNETT, MR: Yes.

SOLOMON J: Yes. Thank you. Can I just ask you about the cause of action, really?

BENNETT, MR: There's three, potentially.

SOLOMON J: Yes.

BENNETT, MR: The tort of inference in economic relations by unlawful means, before - - -

SOLOMON J: Yes. And that – the unlawful means would be physical.

BENNETT, MR: It's an interesting aspect, that when a person has a home open, the agent attends as the agent of the property owner. And the property owner licenses people to come on to the property, but not generally. So at the home open, someone can't come in and turn down the covers on the main bed and (indistinct) to bed and have a nap for a while. Nor can they sit down and eat a meal or do things of that nature. The limited purpose is for the purpose of inspecting the property. So if someone came to disrupt a home open, the - - -

SOLOMON J: You say that would be a trespass?

BENNETT, MR: Yes. And that would be the unlawful means.

SOLOMON J: I see. Because the licence is limited.

BENNETT, MR: Conditional and limited, yes.

SOLOMON J: Yes. All right. So it's interference with - - -

BENNETT, MR: So that's the first cause of action.

SOLOMON J: - - - interference with economic relations.

BENNETT, MR: Tort of intimidation.

SOLOMON J: (indistinct) by unlawful means.

BENNETT, MR: The unlawful means being both the threat of violence, the threat of disruption and, implicitly, the threat of trespass.

SOLOMON J: And what about – is there the threat of defamation or misleading and deceptive conduct or the tort of injurious falsehood if the threat is that, on your client's version, false things would be said about her?

BENNETT, MR: Yes. Yes.

SOLOMON J: So it occurred to me that – anyway, I will let – sorry, go on because you were taking me to the other one, the tort of intimidation.

BENNETT, MR: As your Honour will keenly remember, your Honour successfully argued the tort of interference with economic relations in Ooranya v ISPT [2018] WASC 256.

SOLOMON J: Yes. I must say, I did look at that and suffered a certain amount of PTSD, Mr Bennett.

BENNETT, MR: Yes. As did I. The tort of intimidation and the tort of assault – assault as your Honour knows in tort doesn't necessarily include battery. Against that, it would be put against us by Mr Matic, were he here, that writing a – or speaking a threat to a third party, isn't a tort of assault. Too remote to constitute a tort of assault. But that would be his argument, as I apprehend it.

SOLOMON J: Yes. I had a look at the tort of intimidation and the Uber case.

BENNETT, MR: Yes.

SOLOMON J: And it – I mean, this is perhaps not for today, but it occurred to me, the way that it's explained is that if you've got A threatens B, so as to interfere with Cs economic relations with B, but the threat is made against B, and C is the plaintiff against A. That's the way it's, classically, put.

BENNETT, MR: Yes.

SOLOMON J: And here, the threat is not made against the third party. Here, the threat is made against the plaintiff. So it seems to me that, in fact, it's the threat of a direct tort, not an interference. It's the threat of – on your client's version, the threat of falsehood, defamatory things being said. Anyway, I will leave those conceptual puzzles to you, Mr Bennett, but I just thought – I initially thought this was the tort of intimidation. Then when I looked at the elements, it seemed to me that it didn't quite fit.

BENNETT, MR: The Uber case is Uber BV v Howarth [2017] NSWSC 54, Slattery Js decision.

SOLOMON J: Yes. Yes.

BENNETT, MR: I looked at it slightly differently. The threat is to ruin Ms Yap position, as – cause you the pain that I've suffered.

SOLOMON J: Yes.

BENNETT, MR: If that threat is to go in and disrupt her home opens, it's to encourage the third-party homeowners, no longer to engage Ms Yap, to refrain from engaging her as an agent. And that's how I saw the tort of intimidation.

SOLOMON J: Yes, but that's not a – the threat is – the threat is against Ms Yap. The threat is not made against the potential - - -

BENNETT, MR: It's to – I will attend all your home opens with – put up signs and deal with – that's to discourage the homeowners – future homeowners, from engaging Ms Yap. We can't use her as our agent. We will have that chap come to the home opens and do these things.

SOLOMON J: Yes.

BENNETT, MR: So that's how I saw the tort of intimidation panning out.

SOLOMON J: All right. Anyway, these things are for down the track.

BENNETT, MR: Yes.

SOLOMON J: At this stage, I'm persuaded that at least an interim measure should be – interim order should be made. Now - - -

BENNETT, MR: Perhaps if I went back to the form of the minute of order and discuss that with you.

SOLOMON J: Yes. I was going to go there.

BENNETT, MR: The – the motions - - -

SOLOMON J: From – I've got your minute.

BENNETT, MR: Yes.

SOLOMON J: Upon the application of the plaintiff's by motion dated, it will be 10 February 2022. And on the plaintiffs – and we're missing an apostrophe there, Mr Bennett.

BENNETT, MR: Yes. And an "s" at the end of "undertakings."

SOLOMON J: Correct. Because there were two separate undertakings.

BENNETT, MR: Yes.

SOLOMON J: So it's the apostrophe is after the "s", undertakings plural, to pay any party restrained or affected by the restraints imposed by this court. Such damages as to be assessed by the court, it is ordered that (indistinct) injunction is granted restraining the defendant, and I think I will just make it until further order of this honourable court.

BENNETT, MR: Yes.

SOLOMON J: From, one, attending or attempting to attend any premises which the first and/or second plaintiff conducting an invited public viewing or home open in respect of it. Right. I understand that. Two, erecting signs or any form of public notice of or concerning the first or second plaintiff of such properties. I understand that. Three, preventing, hindering or interfering with access of any person to any such properties which (indistinct) are conducting. Yes.

BENNETT, MR: That should be "at which."

SOLOMON J: And then threatening – I understand the threatening. Otherwise communicating with. I mean, it may not, of itself, be unlawful to communicate with the first plaintiff.

BENNETT, MR: Yes.

SOLOMON J: So I would – my preference would be just to leave it – to leave the words "or otherwise communicating with," and just have it as "threatening the first plaintiff."

BENNETT, MR: Yes.

SOLOMON J: Then the plaintiffs will be served with a summons herein and a copy of this order, a copy of (indistinct) affidavit (indistinct) plaintiff's (indistinct) damages. Yes, the plaintiff's motion be adjourned and be relisted at 10.30 on Monday – what? That will be the - - -

BENNETT, MR: That's the 14th.

SOLOMON J: 14 February 2022.

BENNETT, MR: Valentine's Day.

SOLOMON J: At which time, the plaintiff shall have leave to apply for an extension to this interim order. The defendant has liberty to apply on 24 hours notice, to (indistinct) discharge this interim order and costs of this application be reserved. Yes. I'm content with those orders.

BENNETT, MR: Thank you, your Honour.

SOLOMON J: Now, I think we can – if - - -

BENNETT, MR: We might - - -

SOLOMON J: If you just wait – I mean, I will adjourn and then we can produce that within a few minutes if your instructing solicitor would like to wait. That might be the most effective for you.

BENNETT, MR: The – could we send to your Honour's associate, within the next half an hour – I would want to endorse on it a penal notice. If you, the within named, disobey this order, you're liable to commit a contempt of court.

SOLOMON J: That – you will have to remind me, Mr Bennett, is that a standard form?

BENNETT, MR: Yes. It's in the orders for when one tries to enforce for contempt. It has to be endorsed with a warning, commonly referred to as a penal notice.

SOLOMON J: Yes. But would that ordinarily be issued with an interim order on - - -

BENNETT, MR: Yes. So ordered, for example, in relation to an interim order such as an Anton Piller order, I think it's in – common form of precedence.

SOLOMON J: Yes. But Anton Piller orders are of a particular variety. My preference would be, at this stage – I'm sure that - - -

BENNETT, MR: We will serve it with a covering letter through an experienced process server.

SOLOMON J: Yes. I was going to say, if you – your letter, I'm sure, Mr Bennett, will make it perfectly clear what consequences might flow for disobeying the court's orders. That – my preference would be just to issue orders in the standard form.

BENNETT, MR: Then we will wait for the – for a short time.

SOLOMON J: Yes. very well.

BENNETT, MR: Thank you, your Honour.

SOLOMON J: All right. Thank you, Mr Bennett, and we will adjourn until – subject to any application between now and then, we will adjourn until Monday morning at 10.30 am.

BENNETT, MR: May it please the court.

AT 10.45 AM THE MATTER WAS ADJOURNED UNTIL
MONDAY, 14 FEBRUARY 2022

Auscript are contracted by the Department of Justice to record and/or transcribe court and tribunal proceedings in Western Australia as specified under a government Contract. This Contract prescribes the recording and transcription production standards that must be adhered to.

The transcript of CIV 1106/2022 Yap & Anor v Matic heard on 11/2/22:

- Is a written reproduction of the audio record of the proceeding;
- Is a complete transcript except where otherwise stated. Any "indistinct" notations within the transcript refer to those parts of the recording that could not be accurately transcribed due to speech clarity, recording quality or other factors impacting word intelligibility.

Certified on 15/2/2022.

Bennett
LITIGATION AND COMMERCIAL LAW

Our ref:	JLB:MLB:116677
Contact:	Jess Border
Direct Line:	+61 8 6316 2276
Email:	jborder@bennettlaw.com.au
Contact:	Martin Bennett
Direct Line:	+61 8 6316 2255
Email:	mbennett@bennettlaw.com.au

4 October 2022

Mr Sandi Matic
11 Pearson Place
FLOREAT WA 6014
By Email: sandi@konkrethaus.com.au

Dear Mr Matic

Vivien Jit Sien Yap and Anor v Sandi Matic | Supreme Court proceedings CIV 2008 of 2022
Vivien Jit Sien Yap and Anor v Sandi Matic | Supreme Court proceedings CIV 1106 of 2022

We write in relation to the above proceedings. This is an open communication. You should consult a lawyer if you are in any doubt as to these matters.

Preliminary comments

In this letter, we refer to the operation of orders made by the Supreme Court, a Court with jurisdiction to make such orders. You should, by now, be aware of the application of such orders.

For the avoidance of doubt, this letter is addressed to you, Mr Sandi Matic. Despite persistent queries made and arguments advanced by you in relation to the identity of the defendant, including an attempt to draw a distinction between your individual self and a “juridical” person, the orders made in each of the above proceedings apply to you in your personal capacity.

As we (the plaintiffs’ solicitors), and the Court have emphasised previously on numerous occasions, you are the first defendant. Neither the plaintiffs, nor the Court, recognise or accept the purported distinction between you (‘the living breathing man and natural person’) and your ‘legally generated entity’ or ‘trust’. To the extent that you seem to rely on sources such as “thepeoplescourtofterraaustralis.org”, the content of that which is entirely worthless.

Permanent injunctions

On 2 September 2022, Justice Solomon:

1 dismissed your application for summary judgment against the plaintiffs; and

2 entered default judgment in favour of the plaintiffs.

We write to set out the implications of the default judgment.

B
Whadjuk Noongar Boodja
Level 14, Westralia Square
141 St Georges Terrace
PERTH WA 6000

PO Box 7766
Cloisters Square
PERTH WA 6850

T + 61 8 6316 2200
F + 61 8 6316 2211
bennettlaw.com.au

Lawfirst Pty Ltd
ABN 69 147 622 197
An incorporated legal practice
trading as Bennett.

116677 (2156047)

Liability limited by a scheme approved under Professional Standards Legislation.

You are permanently restrained and an injunction has been granted restraining you from:

1 attending or attempting to attend at any premises at which the first and/or second plaintiff are conducting and invited public viewing or “home open” in respect to the proposed sale of such premises;

2 erecting signage or any form of public notice of or concerning first and/or second plaintiff at such properties or in respect of the first and/or the second plaintiffs sale of such properties;

3 threatening economic reputational of physical harm to the plaintiffs.

The Court also made orders that you pay the plaintiffs’ damages, to be assessed, as well as the plaintiffs’ costs of the application for injunctive relief.

We will shortly file with the court the plaintiffs’ bill of costs and apply for a taxation (that is a Court review) of those costs. You will be liable for payment of those costs in accordance with the Court’s orders.

The plaintiffs will not hesitate to take enforcement action to enforce their costs if enforcement action is required.

Further injunctions

At the hearing on 3 October 2022, of which you had ample notice, the Court made orders in favour of the plaintiffs. These included:

1 interlocutory orders restraining you from publishing any affidavits in CIV 1106 of 2022 and CIV 2008 of 2022 on the internet, any other public notice board, or any other means by which the material would be publicly available and requiring you to remove any already published affidavits;

2 an order requiring you to file an appearance by 10 October 2022. If you file an appearance you may be able to make submissions as to why the Court should not make an indemnity cost against you in favour of the Plaintiffs.

We *enclose* with this letter a copy of those orders.

The Court requested us to emphasise that publication of any of the affidavits in either of the proceedings would constitute a contempt of Court.

If you do not file an appearance, the plaintiffs will seek default judgment for orders restraining you permanently from publishing affidavits in the proceedings.

Consequences of acting in contempt of Court

The rule of law has at its foundation the authority of the Court to make effective orders.

Disobedience of these orders is one manner that constitutes a contempt. Order 55 Rule 7 of the Rules of the Supreme Court provide a range of sanctions which may be imposed by the Court. These include:

1 a power to order the arrest and imprisonment of a contemnor;

2 a power to substantive fines;

3 a power to seize assets.

We emphasise that you are already facing two applications to commit you for your contempt. If you were to disobey these orders it would be at your peril.

Trust funds from sale of Biara Gardens property

We are instructed that the plaintiffs presently hold the commission from the sale of the Biara Gardens property in their trust account.

Now that the proceeding? for injunctive relief have been finally determined, we have instructed our clients that they can authoriseitie removal of the agreed commission from the account.

Yours sincerely

Martin Bennett
Founding Vrincipal

Enel.